DOCUMENTS

MAIN LIBRARY

SAN FRANCISCO PUBLIC LIBRARY

148
352 Sa52ch 718062

NOT TO BE TAKEN FROM THE LIBRARY

Form 3427

SAN FRANCISCO PUBLIC LIBRARY
3 1223 04140 3743

SUPERSEDED BY LATER EDITION

Digitized by the Internet Archive
in 2010 with funding from
San Francisco Public Library

http://www.archive.org/details/charterofcitycou1948sanf

THE HONORABLE

ELMER E. ROBINSON

MAYOR

* *

MEMBERS OF THE

BOARD OF SUPERVISORS

J. JOSEPH SULLIVAN, *PRESIDENT*

GEORGE CHRISTOPHER
DON FAZACKERLEY
DAN GALLAGHER
JAMES LEO HALLEY
MARVIN E. LEWIS
CHESTER R. MacPHEE
EDWARD T. MANCUSO
P. J. McMURRAY
DEWEY MEAD
JOHN J. SULLIVAN

1948

CHARTER

OF THE

City and County of San Francisco

Adopted March 26, 1931, in effect January 8, 1932

Published by
Authority of the Board of Supervisors

John R. McGrath, Clerk of the Board

352
Saitech [illegible]

718062

3 1223 04140 3743

HISTORY OF CHARTER LEGISLATION

The Charter was ratified by vote of the People on March 26, 1931; ratified by the Legislature of the State April 13, 1931; in effect January 8, 1932.

Charter Amendments

Section Amended	*Section Added*	*Date of Election*	*Date Ratified*
5		November 4, 1941	December 22, 1941
	5.1	November 4, 1952	January 9, 1953
7		November 8, 1932	January 5, 1933
do		November 7, 1950	January 22, 1951
do		November 6, 1951	March 10, 1952
8		November 6, 1945	January 15, 1946
9		November 3, 1942	January 11, 1943
11		November 6, 1934	January 22, 1935
do		November 2, 1948	January 7, 1949
do		November 8, 1949	December 15, 1949
12		November 4, 1947	March 8, 1948
13		November 6, 1934	January 22, 1935
do		November 4, 1952	January 9, 1953
	13.1	November 8, 1949	December 15, 1949
16		May 2, 1935	May 13, 1935
17		November 4, 1952	January 9, 1953
24		March 9, 1937	April 6, 1937
25		November 4, 1947	March 8, 1948
	26.1	November 4, 1947	March 8, 1948
	34.1	November 7, 1944	January 16, 1945
34.1		November 8, 1949	December 15, 1949
35		March 9, 1937	April 6, 1937
do		November 3, 1942	January 11, 1943
do		November 2, 1948	January 7, 1949
	35.1	November 3, 1942	January 11, 1943
	35.2	November 3, 1942	January 11, 1943
	35.3	November 3, 1942	January 11, 1943
35.3		November 4, 1947	March 8, 1948
	35.4	November 3, 1942	January 11, 1943

Section Amended	*Section Added*	*Date of Election*	*Date Ratified*
35.4		November 2, 1948	January 7, 1949
	35.5	November 3, 1942	January 11, 1943
35.5		November 6, 1945	January 15, 1946
do		November 5, 1946	January 7, 1947
do		November 4, 1947	March 8, 1948
do		November 2, 1948	January 7, 1949
do		November 7, 1950	January 22, 1951
	35.5½	May 16, 1944	June 9, 1944
35.5½		November 5, 1946	January 7, 1947
do		November 4, 1947	March 8, 1948
do		November 8, 1949	December 15, 1949
	35.5.1	June 3, 1952	August 7, 1952
	35.6	November 3, 1942	January 11, 1943
	35.7	November 3, 1942	January 11, 1943
	35.8	November 3, 1942	January 11, 1943
	35.9	November 3, 1942	January 11, 1943
	35.10	November 3, 1942	January 11, 1943
	35.11	November 3, 1942	January 11, 1943
	35.12	November 3, 1942	January 11, 1943
	35.13	November 3, 1942	January 11, 1943
36		November 7, 1939	February 8, 1940
do		November 3, 1942	January 11, 1943
do		November 6, 1945	January 15, 1946
do		November 5, 1946	January 7, 1947
do		November 4, 1947	March 8, 1948
do		November 7, 1950	January 22, 1951
	36.1	May 16, 1944	June 9, 1944
	36.1½	November 4, 1947	March 8, 1948
36.1½		November 7, 1950	January 22, 1951
	36.2	May 16, 1944	June 9, 1944
36.2	(repealed)	November 6, 1945	January 15, 1946
	36.2	June 3, 1952	August 7, 1952
38		November 3, 1953	March 5, 1954
	38.01	November 4, 1952	January 9, 1953
	38.1	November 3, 1942	January 11, 1943
	38.2	November 5, 1946	January 7, 1947

Section Amended	*Section Added*	*Date of Election*	*Date Ratified*
	38.3	November 3, 1953	March 5, 1954
40		November 5, 1940	January 21, 1941
do		November 8, 1949	December 15, 1949
41		November 8, 1949	December 15, 1949
	41.1	November 2, 1948	January 7, 1949
42		November 3, 1942	January 11, 1943
do		November 7, 1944	January 16, 1945
do		November 8, 1949	December 15, 1949
43		November 5, 1940	January 21, 1941
47		March 9, 1937	April 6, 1937
48		March 9, 1937	April 6, 1937
	48.1	March 9, 1937	April 6, 1937
50		November 3, 1942	January 11, 1943
do		June 3, 1952	August 7, 1952
51		November 3, 1942	January 11, 1943
do		November 4, 1947	March 8, 1948
52		November 7, 1944	January 16, 1945
do		November 6, 1945	January 15, 1946
do		November 4, 1947	March 8, 1948
53		November 2, 1948	January 7, 1949
56		November 2, 1948	January 7, 1949
60		November 4, 1947	March 8, 1948
61		November 2, 1948	January 7, 1949
	61.1	March 9, 1937	April 6, 1937
62		November 6, 1945	January 15, 1946
65		November 6, 1934	January 22, 1935
69		November 6, 1934	January 22, 1935
do		November 5, 1946	January 7, 1947
do		November 4, 1947	March 8, 1948
	69.1	November 4, 1947	March 8, 1948
	70.1	April 11, 1933	April 21, 1933
71		November 7, 1939	February 8, 1940
72		November 6, 1934	January 22, 1935
do		November 5, 1946	January 7, 1947
do		November 4, 1947	March 8, 1948
77		November 4, 1947	March 8, 1948
78		May 2, 1935	May 13, 1935
79		November 8, 1932	January 5, 1933

Section Amended	*Section Added*	*Date of Election*	*Date Ratified*
80		November 8, 1932	January 5, 1933
81		November 8, 1932	January 5, 1933
do		March 9, 1937	April 6, 1937
82		November 2, 1948	January 7, 1949
87		November 6, 1934	January 22, 1935
	88.1	November 6, 1945	January 15, 1946
92		November 7, 1950	January 22, 1951
93		November 6, 1945	January 15, 1946
95		November 5, 1946	January 7, 1947
98		May 2, 1935	May 13, 1935
108		November 6, 1934	January 22, 1935
115		November 4, 1947	March 8, 1948
116		November 4, 1947	March 8, 1948
	116.1	November 4, 1947	March 8, 1948
117		November 4, 1947	March 8, 1948
do		June 3, 1952	August 7, 1952
	117.1	November 4, 1947	March 8, 1948
117.1		June 3, 1952	August 7, 1952
	117.2	November 4, 1947	March 8, 1948
	117.3	November 4, 1947	March 8, 1948
118		November 4, 1947	March 8, 1948
	119.1	May 16, 1944	June 9, 1944
	119.2	November 4, 1947	March 8, 1948
	119.3	November 4, 1947	March 8, 1948
	119.4	November 8, 1949	December 15, 1949
125		November 7, 1939	February 8, 1940
do		May 7, 1940	January 20, 1941
	125.1	November 5, 1940	January 21, 1941
127		March 9, 1937	April 6, 1937
128		March 9, 1937	April 6, 1937
	128.1	March 9, 1937	April 6, 1937
	132.1	November 3, 1942	January 11, 1943
134		November 5, 1946	January 7, 1947
do		November 6, 1951	March 10, 1952
135		November 3, 1942	January 11, 1943
	135.1	June 1, 1948	January 7, 1949
136		November 3, 1942	January 11, 1943
do		November 6, 1951	March 10, 1952

Section Amended	*Section Added*	*Date of Election*	*Date Ratified*
137	(repealed)	November 6, 1951	March 10, 1952
138	(repealed)	November 6, 1951	March 10, 1952
139	(repealed)	November 6, 1951	March 10, 1952
140		November 6, 1945	January 15, 1946
142		November 8, 1932	January 5, 1933
do		March 9, 1937	April 6, 1937
	142.1	March 9, 1937	April 6, 1937
145		November 7, 1939	February 8, 1940
do		November 4, 1947	March 8, 1948
	145.01	November 4, 1952	January 9, 1953
	145.1	November 3, 1942	January 11, 1943
145.1		November 7, 1950	January 22, 1951
146		March 9, 1937	April 6, 1937
do		November 5, 1940	January 21, 1941
do		November 3, 1953	March 5, 1954
	146.1	November 5, 1946	January 7, 1947
146.1		November 4, 1947	March 8, 1948
	146.2	November 5, 1946	January 7, 1947
	147.1	November 2, 1937	March 12, 1938
148		March 9, 1937	April 6, 1937
do		November 6, 1945	January 15, 1946
149		November 8, 1932	January 5, 1933
do		November 4, 1952	January 9, 1953
150		November 4, 1952	January 9, 1953
151		November 3, 1942	January 11, 1943
do		November 8, 1949	December 15, 1949
	151.1	November 6, 1945	January 15, 1946
151.1		November 5, 1946	January 7, 1947
	151.3	November 6, 1945	January 15, 1946
151.3		November 5, 1946	January 7, 1947
	151.4	November 8, 1949	December 15, 1949
	151.5	June 6, 1950	September 26, 1950
153		November 5, 1940	January 21, 1941
do		November 3, 1942	January 11, 1943
do		May 16, 1944	June 9, 1944
do		November 5, 1946	January 7, 1947
do		November 7, 1950	January 22, 1951

Section Amended	*Section Added*	*Date of Election*	*Date Ratified*
	153.1	November 7, 1944	January 16, 1945
154		November 4, 1947	March 8, 1948
156		May 16, 1944	June 9, 1944
do		November 6, 1945	January 15, 1946
do		November 4, 1952	January 9, 1953
	158.1	November 5, 1946	January 7, 1947
	158.2	November 4, 1952	January 9, 1953
	158.3	November 4, 1952	January 9, 1953
161		November 6, 1934	January 22, 1935
do		November 5, 1940	January 21, 1941
do		November 3, 1942	January 11, 1943
do		November 2, 1943	February 2, 1944
do		November 6, 1951	March 10, 1952
	161.1	November 6, 1951	March 10, 1952
	161.2	November 6, 1951	March 10, 1952
163		November 7, 1944	January 16, 1945
	165.1	November 5, 1940	January 21, 1941
	165.1.1	November 8, 1949	December 15, 1949
	165.1.3	November 4, 1952	January 9, 1953
	165.2	November 5, 1946	January 7, 1947
165.2		November 4, 1947	March 8, 1948
166		May 2, 1935	May 13, 1935
	166.1	November 4, 1947	March 8, 1948
	168.1	November 7, 1944	January 16, 1945
168.1		November 2, 1948	January 7, 1949
	168.1.1	November 2, 1948	January 7, 1949
	168.1.2	November 2, 1948	January 7, 1949
168.1.2		November 6, 1951	March 10, 1952
	168.1.3	November 2, 1948	January 7, 1949
	168.1.4	November 2, 1948	January 7, 1949
	168.1.5	November 2, 1948	January 7, 1949
168.1.5		November 6, 1951	March 10, 1952
	168.1.5.1	November 6, 1951	March 10, 1952
	168.1.6	November 2, 1948	January 7, 1949
	168.1.7	November 2, 1948	January 7, 1949
168.1.7		November 6, 1951	March 10, 1952
	168.1.8	November 2, 1948	January 7, 1949
	168.1.9	November 2, 1948	January 7, 1949

Section Amended	*Section Added*	*Date of Election*	*Date Ratified*
	168.1.10	November 2, 1948	January 7, 1949
	168.1.11	November 2, 1948	January 7, 1949
	168.1.12	November 2, 1948	January 7, 1949
168.1.12		November 8, 1949	December 15, 1949
	168.1.13	November 2, 1948	January 7, 1949
	168.1.14	November 2, 1948	January 7, 1949
	168.1.16	November 6, 1951	March 10, 1952
	168.1.17	November 6, 1951	March 10, 1952
	168.3	November 5, 1946	January 7, 1947
	171.1	November 2, 1948	January 7, 1947
171.1		November 8, 1949	December 15, 1949
	171.1.1	November 2, 1948	January 7, 1949
	171.1.2	November 2, 1948	January 7, 1949
171.1.2		November 8, 1949	December 15, 1949
	171.1.3	November 2, 1948	January 7, 1949
	171.1.4	November 2, 1948	January 7, 1949
	171.1.5	November 2, 1948	January 7, 1949
171.1.5		November 8, 1949	December 15, 1949
	171.1.6	November 2, 1948	January 7, 1949
	171.1.7	November 2, 1948	January 7, 1949
171.1.7		November 8, 1949	December 15, 1949
	171.1.8	November 2, 1948	January 7, 1949
	171.1.9	November 2, 1948	January 7, 1949
	171.1.10	November 2, 1948	January 7, 1949
	171.1.11	November 2, 1948	January 7, 1949
	171.1.12	November 2, 1948	January 7, 1949
	171.1.13	November 2, 1948	January 7, 1949
	171.1.14	November 2, 1948	January 7, 1949
172		March 9, 1937	April 6, 1937
do		November 6, 1951	March 10, 1952
do		November 4, 1952	January 9, 1953
	172.1	March 9, 1937	April 6, 1937
172.1		November 5, 1940	January 21, 1941
do		November 3, 1942	January 11, 1943
175		November 3, 1942	January 11, 1943
179		May 2, 1935	May 13, 1935
183		June 1, 1948	January 7, 1949
220		November 7, 1950	January 22, 1951

THE CITY AND COUNTY AND ITS POWERS

Name and Boundaries of City and County

SECTION 1. The City and County of San Francisco shall continue as a municipal corporation known by name as San Francisco. The boundaries of the municipal corporation are those set forth in the Political Code of California and as such may be extended as provided by law.

Powers of the City and County

SECTION 2. The City and County of San Francisco shall have perpetual succession; may appear, sue and defend in all courts and places in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may, subject to the restrictions contained in this charter, purchase, receive, hold and enjoy, sell, lease and convey real and personal property; receive bequests, gifts and donations of all kinds of property in fee simple, or in trust for charitable and other purposes; and do all acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust.

All rights and titles to property, all rights and obligations under contracts or trusts, and all causes of action of any kind in any court or tribunal vested in the City and County of San Francisco or in any officer or employee thereof in his official capacity, at the time this charter becomes effective, as well as all liabilities in contract or tort and causes of action involving the same in so far as they affect the city and county or any officer or employee thereof in his official capacity which shall be outstanding, at the time this charter becomes effective, shall continue without abatement or modification by reason of any provision hereof.

All ordinances or resolutions in force at the time this charter takes effect and not inconsistent therewith shall continue in force until amended or repealed. All public improvements or other proceedings legally authorized under the charter superseded by this charter shall be carried to completion under previously existing laws or under this charter. The powers or duties vested in city and county officers, boards or commissions by law or under the charter superseded by this charter shall be exercised, continued and carried out by their successors or by other city and county officers, boards or commissions, consistent with the provisions of this charter.

All functions of the city and county, and the powers and duties of officers and employees charged with the performance thereof, as these shall have been apportioned among departments and offices, and institutions, utilities, bureaus or other subdivisions thereof, as existing at the time this charter shall go into effect, shall continue to be the functions of such departments and offices and the powers and duties of officers and employees assigned thereto, except as in, or under authority of, this charter otherwise specifically provided. The legally authorized officers and employees of each of said departments and offices or subdivisions thereof shall continue as the officers and employees of said departments and offices or subdivisions thereof, subject to the conditions governing their respective appointments to such positions, and except as in this charter otherwise provided; and where part of the functions and duties of any department or office are, by this charter, transferred or placed in any other department or office, the persons performing such functions and duties, shall be transferred therewith. The compensations legally authorized for the several officers and employees shall be continued subject to the other provisions of this charter.

The city and county may make and enforce all laws, ordinances and regulations necessary, convenient or incidental to the exercise of all rights and powers in respect to its affairs, officers and employees, and shall have all rights and powers appropriate to a county, a city, and a city and county, subject only to the restrictions and limitations provided in this charter, including the power to acquire and construct plants, works, utilities, areas, highways and institutions outside the boundaries of the city and county, and maintenance and operation of the same, and the exercise of functions or maintenance of services outside the boundaries of the city and county, including the expenditure of funds therefor through any agency. The specification or enumeration in this charter of particular powers shall not be exclusive. The exercise of all rights and powers of the city and county when not prescribed in this charter shall be as provided by ordinance or resolution of the board of supervisors.

Nature of City and County.—The consolidated City and County of San Francisco partakes of the nature of a city and county, and has the powers and performs the functions of both. **Nicholl v. Koster** (1910) 157 Cal. 416, 420, 108 Pac. 302; **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

The functions performed in a particular case determine whether San Francisco is to be viewed as a city or a county. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

The governmental structure of the City and County is both a county and a municipal corporation, and the functions performed by its officers in each instance determine whether it is to be viewed as a city or county. **Beard v. San Francisco** (1947) 79 Cal. App. (2d) 753, 180 Pac. (2d) 744.

"Although the boundaries of the two bodies corporate are coincident, the electors within this territory vote for officers whose powers and duties are prescribed by general laws, and upon which the charter is silent. It must follow from this that some of its officers are city officers and others are county officers. . . . The government of the city is municipal, and the officers who are to exercise that government are municipal officers, but the territory in which that government is exercised is still a part of the state, and for all purposes other than municipal governent, is subject to its control, with the right on the part of the state to authorize the election therein of such officers as may be required to execute its general laws, or to perform such functions, disconnected with the municipal government, as may pertain to the government of the state." **Kahn v. Sutro** (1896) 114 Cal. 315, 326, 46 Pac. 87, 33 L. R. A. 620, quoted in **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

Powers Appropriate to County: Bonded Indebtedness.—Section 101, which incorporates the general law on creation of bonded indebtedness of municipalities applies "except as otherwise provided in this charter," and hence does not prevent the creation of a bonded indebtedness for county purposes, as an exercise of powers appropriate to a county under § 2. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

The approved charter is a law of the state and has the same force and effect as a law directly enacted by the Legislature. **Yosemite, etc. Corp. v. State Board of Equalization** (1943) 59 Cal. App. (2d) 39, 138 Pac. (2d) 39.

Under the constitution the Charter is not only the organic law of the city but it is also a law of the state within the constitutional limitations. **C. J. Kubach Co. v. McGuire** (1926) 199 Cal. 215, 248 Pac. 676.

The rule that all ordinances in conflict with the new charter were automatically repealed as to conflicting provisions when the new charter took effect is implied by the sentence that "All ordinances or resolutions in force at the time this charter takes effect and not inconsistent therewith shall continue in force until amended or repealed." **King v. Leavy** (1932) 124 Cal. App. 422, 12 Pac. (2d) 661.

Charter provisions which are not self-executing do not supersede ordinances passed under the old charter, and they remain in effect until the ordinances contemplated by the new charter take their place. **King v. Leavy** (1932) 124 Cal. App. 422, 12 Pac. (2d) 661.

A contract of the director of public works for the services of an expert to prepare plans, etc., for a sewage disposal project, need not be authorized by the supervisors by a resolution or ordinance. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 575, 170 Pac. (2d) 904.

Amendment as Repeal of Statute.—The approval of a charter amendment inconsistent with an existing statute does not have the effect of repealing it where the subject matter is one of statewide concern. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

The general law controls in nonmunicipal affairs.—Wilkes v. San Francisco (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

Effect of Regulations in Statewide Matters.—In respect of nonmunicipal affairs, local regulations may be enforced only if they are not in conflict with general laws. (Const. art. xi, § 11.) The rule is as follows: Where the Legislature has assumed to regulate a given course of conduct by prohibitory enactments, a municipality with subordinate power to act in the matter may make such new and additional regulations in aid and furtherance of the purpose of the general law as may seem fit and appropriate to the necessities of the particular locality and which are not in themselves unreasonable. **Mann v. Scott** (1919) 180 Cal. 550, 182 Pac. 281; **Pipoly v. Benson** (1942) 20 Cal. (2d) 366, 125 Pac. (2d) 482, 147 A. L. R. 515.

Regardless of whether there is any actual grammatical conflict between an ordinance and a statute, the ordinance is invalid if it attempts to impose additional requirements in a field which is fully occupied by the statute. The invalidity in such case arises, not from the conflict of language, but from the inevitable conflict of jurisdiction resulting from dual regulations covering the same ground. **Pipoly v. Benson** (1942) 20 Cal. (2d) 366, 125 Pac. (2d) 482.

Powers as to Municipal Affairs.—When a city avails itself of the privilege extended by the 1914 amendment to Const. art. xi, §§ 6, 8, its powers over municipal affairs become all embracing, restricted and limited by the charter only, and free from any interference by the state through general laws. The city becomes independent of general laws upon municipal affairs. **Morgan v. Los Angeles** (1920) 182 Cal. 301, 187 Pac. 1050; **Pasadena v. Charleville** (1932) 215 Cal. 384, 10 Pac. (2d) 745; **Smith v. Glendale** (1934) 1 Cal. App. (2d) 463, 36 Pac. (2d) 1053; **Murphy v. Piedmont** (1936) 17 Cal. App. (2d) 569, 62 Pac. (2d) 614, 64 Pac. (2d) 399.

When a city has availed itself of the provisions of Const. art. xi, §§ 6, 8, it has full control over its municipal affairs unaffected by general laws on the same subject matters, and it has such control whether or not its Charter specifically provides for the particular sought to be exercised, so long as the power is exercised within the limits or restrictions placed in the Charter. **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138; **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The city having availed itself of the 1914 amendment of Const. art. xi, § 6, has full control over its own affairs, whether or not the Charter specifically provides for the particular power sought to be exercised so long as the power is constitutionally exercised within the limitations or restrictions placed in the Charter. The mere enumeration of powers conferred does not constitute a limitation or restriction. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

As to municipal affairs, local regulations are superior to the provisions of a state statute if there is conflict between the two. **Pipoly v. Benson** (1942) 20 Cal. (2d) 366, 125 Pac. (2d) 482, 147. A. L. R. 515.

To signify an acceptance of the power conferred by Const. art. xi, §§ 6, 8, it has been the custom of cities of the state to follow one of two courses—an express declaration of acceptance covering all municipal affairs, or express legislation controlling the particular subject-matter. If the first course is followed, all municipal affairs are removed from the control of the Legislature though no legislation be enacted by the city covering them. If the second course alone is followed, some doubt has arisen as to the control over other municipal affairs as to which the city has not attempted to legislate. **Murphy v. Piedmont** (1936) 17 Cal. App. (2d) 569, 62 Pac. (2d) 614, 64 Pac. (2d) 399.

To remove a city's municipal affairs from the control of general laws it is sufficient if the city has availed itself of the offer extended to it by the Constitution as amended in 1914 and has incorporated in its charter an acceptance of the privilege granted. **Pasadena v. Charleville** (1932) 215 Cal. 384, 10 Pac. (2d) 745.

The San Francisco Charter is drawn as an acceptance of the general grant contained in Const. art xi, §§ 6, 8, as amended in 1914. And its enumeration of some of the powers of the city does not convert the charter to one which is a grant of power, and thus exclude the exercise of powers not enumerated. **West Coast Advertising Co. v. San Francisco** (1936) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

Where a Charter accepting the privilege tendered by the 1914 amendment of the constitution specifically legislates upon the subject, it is deemed a grant of power; and where the Charter in general terms accepts the offer, the enumeration of powers is unnecessary and the general language of acceptance becomes a limitation of the power of the city and is all-embracing so far as the removal of the municipal affairs from the control of the Legislature is concerned. **Pasadena v. Charleville** (1932) 215 Cal. 384, 10 Pac. (2d) 745.

The Charter is not a grant of powers, but rather an instrument which accepts the privilege granted by the Constitution of complete autonomous rule with respect to municipal affairs, and which otherwise serves merely to specify the limitations and restrictions upon the exercise of the powers so granted and accepted. **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

The Charter is not a grant but a limitation. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A. L. R. 838.

As to municipal affairs the Charter, instead of being a grant of power, is in effect a limitation of powers. In re **Nowak** (1921) 184 Cal. 701, 195 Pac. 402, construing charter of Los Angeles.

Under Const. art. xi, §§ 6, 7, freeholders' charters are no longer grants of municipal power, but are merely restrictions and limitations on such powers. **Oakland v. Williams** (1940) 15 Cal. (2d) 542, 103 Pac. (2d) 168.

Where the Charter is silent, a city may exercise powers conferred on it by general law, provided such general powers are not inconsistent with those granted by the Charter. **Oakland v. Williams** (1940) 15 Cal. (2d) 542, 103 Pac. (2d) 168.

The enumeration of some powers does not exclude the exercise of powers not enumerated except as limited by the Charter and the Constitution. **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 523, 95 Pac. (2d) 138; **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Delegation of Power.—When the legislative body of a charter city has exercised the function and discretion of determining whether to enter into a contract for a joint survey and of appropriating money therefor, pursuant to Stats. 1921, p. 542, Deering's Gen. Laws, Act 1801, providing for joint exercise of powers by governmental bodies, the delegation of the function of checking the expenditure of money in accomplishment of the desired purpose does not constitute an unlawful delegation of power in violation of the Constitution or Charter. **Oakland v. Williams** (1940) 15 Cal. (2d) 542, 103 Pac. (2d) 168.

If a state statute affects a municipal affair only incidentally in the accomplishment of a proper objective of statewide concern, the state law applies even as to autonomous charter cities. **Pasadena v. Charleville** (1932) 215 Cal. 384, 10 Pac. (2d) 745; **Department of Water & Power v. Inyo Chemical Co.** (1940) 16 Cal. (2d) 744, 108 Pac. (2d) 410; **Wilson v. Walters** (1941) 19 Cal. (2d) 111, 114, 119 Pac. (2d) 340.

Definition of Municipal Affairs.—No exact definition of the term "municipal affairs" can be formulated. The power to regulate such affairs is not fixed, but fluctuates in scope. Changes in conditions make necessary new and broader applications thereof. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A. L. R. 838.

Municipal affairs as those words are used in the organic law refer to the internal business affairs of a municipality. **Fragley v. Phelan** (1899) 126 Cal. 383, 58 Pac. 923.

What Are Municipal Affairs.—The issuance of permits for the erection of buildings within the territorial limits of San Francisco is a municipal affair over which it has supreme control. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

The procedure for issuing permits for erection of buildings within the territorial limits of San Francisco is a municipal affair. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4, citing **Brougher v. Board of Public Works** (1930) 107 Cal. App. 15, 24, 290 Pac. 140.

The operation of its street railway by a municipality is a municipal affair. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The supplying of water to the inhabitants of a city is a municipal purpose. **Wehrle v. Board of Water & Power Commissioners** (1930) 211 Cal. 70, 293 Pac. 67; **Smith v. Glendale** (1934) 1 Cal. App. (2d) 463, 36 Pac. (2d) 1083.

The imposition of a tax for revenue is a municipal affair. In re **Nowak** (1921) 184 Cal. 701, 195 Pac. 402; **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

Since San Francisco is a charter city, its Charter supersedes state law in the field of street improvement and the collection of the taxes therefor, as these are municipal affairs; and ordinances relating thereto prevail over general laws inconsistent therewith. **Raisch v. Myers** (1946) 27 Cal. (2d) 773, 167 Pac. (2d) 198.

The establishment of a health system for city employees is a municipal affair. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A. L. R. 838.

The general law requiring that rules and regulations for government of the police department shall prescribe a separate and distinct penalty for violation of each rule and regulation (See Stats. 1911, p. 1160; Deering's Gen. Laws, Act 6014) has no application in San Francisco. **Shewlbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

The general law establishing a uniform system of county and township government is applicable to San Francisco operating under a freeholders' charter. **Rand v. Collins** (1931) 214 Cal. 168, 4 Pac. (2d) 529, citing **Martin v. Election Commissioners** (1899) 126 Cal. 404, 411, 58 Pac. 932.

The Legislature, not the county, has the constitutional power to fix the salaries of clerks and attachés of the municipal court. **Simpson v. Payne** (1926) 79 Cal. App. 780, 251 Pac. 324; **Slavich v. Walsh** (1947) 82 Cal. App. (2d) ...... (82 ACA 248), ... Pac. (2d) ......, rehearing denied.

The Public Works Alien Employment Act of 1931 (Stats. 1931, p. 913, now Labor Code, § 1850 et seq.) is applicable to and binding on freeholders' charter cities, since it involves a matter of general or state concern. **Pasadena v. Charleville** (1932) 215 Cal. 384, 10 Pac. (2d) 745.

The regulation of traffic upon the streets of a city is not a municipal affair over which the local authorities are given a power superior to that of the Legislature. **Pipoly v. Benson** (1942) 20 Cal. (2d) 366, 125 Pac. (2d) 482, 147 A. L. R. 515. See Veh. Code, § 459, authorizing regulation as to certain matters.

Prior to the enactment in 1943 of Veh. Code, §§ 459.1, 459.2, local ordinances regulating pedestrian traffic were invalid where they invaded the field fully occupied by state law. **Pipoly v. Benson** (1942) 20 Cal. (2d) 366, 125 Pac. (2d) 482; **Fuentes v. Ling** (1942) 21 Cal. (2d) 59, 130 Pac. (2d) 121 (holding invalid § 10 of art. 3 of Ordinance 7691 NS); **Wilton v. Henkin** (1942) 52 Cal. App. (2d) 368, 126 Pac. (2d) 425; **Ryan v. San Diego Electric R. Co.** (1942) 52 Cal. App. (2d) 460, 126 Pac. (2d) Pac. (2d) 401; **Stricklin v. Rosemeyer** (1942) 52 Cal. App. (2d) 558, 126 Pac. (2d) 665 (holding invalid § 20 of art. III of San Francisco Traffic Code); **Nosbonne v. Brill** (1942) 53 Cal. App. (2d) 436, 128 Pac. (2d) 57. See also **Quinn v. Rosenfeld** (1940) 15 Cal. (2d) 486, 102 Pac. (2d) 317.

The speed limit at which automobiles might be driven is a matter of general state concern, and not a municipal affair. **Ex parte Daniels** (1920) 183 Cal. 636, 192 Pac. 442, 21 A. L. R. 1172.

The establishment of viaducts or subways at railroad crossings in a city is not a municipal affair. **Civic Center Association v. Railroad Commission** (1917) 175 Cal. 441, 166 Pac. 351.

The matter of the liability of and payment by a city for its tort is not a municipal affair. **Department of Water & Power v. Inyo Chemical Co.** (1940) 16 Cal. (2d) 744, 108 Pac. (2d) 410.

The liability of municipalties and counties for the tortious acts or omissions of their servants is a matter of general state concern, not a municipal affair. **Douglass v. Los Angeles** (1935) 5 Cal. (2d) 123, 53 Pac. (2d) 353.

The existence of liability for defective streets and highways is a matter of statewide concern, and cannot be chartered away, even though a municipality should attempt to do so. **Rafferty v. Marysville** (1929) 207 Cal. 657, 665, 280 Pac. 118; **Douglass v. Los Angeles** (1935) 5 Cal. (2d) 123, 53 Pac. (2d) 353; **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

The filing of claims for damages predicated on statutory liability under the Public Liability Act (Stats. 1923, p. 675, Stats. 1931, p. 2475, Deering's Gen. Laws, Act. 5619) is a matter of statewide concern. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

Garnishment.—Code Civ. Proc. § 710, authorizing enforcement of a civil judgment by levy on persons owing money to the judgment debtor, relates to a matter of statewide concern, and applies to charter cities, although it may incidentally affect the fiscal policy and management of the city. **Department of Water & Power v. Inyo Chemical Co.** (1940) 16 Cal. (2d) 744, 108 Pac. (2d) 410.

Code Civ. Proc., § 710, permitting garnishment of salaries of municipal court judges does not constitute an unconstitutional interference with a municipal affair, even as applied to a judge of such a court in a charter city. **Wilson v. Walters** (1941) 19 Cal. (2d) 111, 114, 119 Pac. (2d) 340.

As to municipal courts, the Constitution, regulation, government and procedure are state, rather than municipal, affairs. The only particular excepted from the rule is that of deciding whether to have such a court. **Chambers v. Terry** (1940) 40 Cal. App (2d) 153, 104 Pac. (2d) 663; **Wilson v. Walters** (1941) 19 Cal. (2d) 111, 119 Pac. (2d) 340; **Slavich v. Walsh** (1947) 82 Cal. App. (2d) ...... (82 ACA 248), ... Pac. (2d) ......, rehearing denied.

The actual establishment of a municipal court takes on the character of a municipal affair as that term is employed in the Constitution. **People v. Denault** (1927) 81 Cal. App. 1, 17, 253 Pac. 151.

While the school system is a matter of statewide concern, and not a municipal affair, the City and County may make local regulations in furtherance of the system, provided they do not conflict with the general law. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A. L. R. 838.

School matters may be made a municipal affair by the city when acting in promotion and not in derogation of the legislative school plans and purposes of the state. **Anderson v. Board of Education** (1932) 126 Cal. App. 514, 15 Pac. (2d) 774, 16 Pac. (2d) 272; **Esberg v. Badaracco** (1927) 202 Cal. 110, 259 Pac. 730; **Whitmore v. Brown** (1929) 207 Cal. 473, 279 Pac. 447.

Relief of Indigents.—The duty to relieve the indigent, established by a state statute (Pol. Code, § 4041.16, now Welf. & Inst. Code, § 200-207; The Pauper Act, Deering's Gen. Laws, Act 5814) is a matter of statewide interest in which the City and County of San Francisco is governed by the general law, and acts as a county. No inconsistent provisions in its municipal charter can limit the performance of this county function. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

Since in relieving the indigent under state law, San Francisco acts as a county, it may issue bonds for such purpose under Pol. Code, § 4088. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

The power of charter cities to raise money by taxation for municipal purposes does not find its source in any grant of the Legislature, but has been directly granted by the people by the provisions of the Constitution. **Ex Parte Braun** (1903) 141 Cal. 204, 74 Pac. 780; **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

An action for declaratory relief may be brought against a municipal corporation or other subdivision of the state. **Hoyt v. Board of Civil Service Commissioners** (1942) 21 Cal. (2d) 399, 132 Pac. (2d) 804; **Viner v. Civil Service Commission** (1943) 59 Cal. App. (2d) 458, 139 Pac. (2d) 88.

Eminent Domain.—A city has no inherent right to maintain eminent domain proceedings, and can exercise such right only when expressly authorized by statute. **Los Angeles v. Koyer** (1920) 48 Cal. App. 720, 192 Pac. 301; **Donegan v. Los Angeles** (1930) 109 Cal. App. 673, 293 Pac. 912; **Mackay v. Los Angeles** (1934) 136 Cal. App. 180, 28 Pac. (2d) 706.

Municipal home rule in California, see 30 California Law Review, pp. 1, 272.

General Law Procedure

SECTION 3. Where a procedure for the exercising of any rights or powers belonging to a city, or a county, or a city and county is provided by statute of the State of California, said procedure shall control and be followed unless a different procedure is provided in, or by ordinance enacted under authority of, this charter.

In issuance of bonds in aid of indigent persons under Pol. Code, § 4088, applicable as a general law and also by virtue of § 3, it is proper to specify the maximum rate of interest, although the statute requires that "the rate of interest" be stated. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

Inapplicability of statutory procedure relative to street and other improvements where different procedure prescribed: § 107.

Presence in freeholder charters of provisions incorporating general laws insofar as they are not inconsistent with other provisions of such charters, see 30 California Law Review, p. 325.

ELECTIVE AND APPOINTIVE OFFICERS

City and County Officers

SECTION 4. The officers of the city and county shall be the officers elected by vote of the people, members of the board of education, members of boards and commissions appointed by the mayor, members of the juvenile probation and adult probation boards or committees, members of the board of law library trustees, the superintendent of schools, the clerk of the municipal court, the secretary and jury commissioner of the superior court, the executive appointed by each board or commission as the chief executive officer under such board or commission, the controller, the chief administrative officer, the head of each department under the chief administrative officer and the coroner, public administrator, county clerk, tax and license collector, recorder, registrar of voters, horticultural commissioner, sealer of weights and measures, and such other officers as may hereafter be provided by law or so designated by ordinance.

Successor to Auditor.—Const. art. xi, § 8½ is broad enough to authorize the designation as controller of the county officer generally known as auditor. **Rand v. Collins** (1931) 214 Cal. 168, 4 Pac. (2) 529.

The chief of police is an executive officer, and a complaint against a police officer may be verified before him. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

Authority to make office of tax collector, registrar of voters, recorder, county clerk and public administrator appointive, see note under § 59.

Continuance in office of coroner at Charter's effective date, see § 62.

Elective Officers and Terms

SECTION 5. The mayor, the members of the board of supervisors, an assessor, a district attorney, a city attorney, a sheriff, a treasurer, a public defender, and municipal court judges shall be elected by the voters of the city and county. At the general municipal election in 1943, and at the general municipal election in every fourth year thereafter, there shall be elected a mayor, six supervisors, a district attorney and a sheriff, and at the general municipal election in 1945, and at the general municipal election in every fourth year thereafter, there shall be elected five supervisors, a city attorney, and a treasurer, and at the general election in 1942, and at the general election in every fourth year thereafter there shall be elected an assessor and a public defender. All of the aforesaid officials shall be elected for a term of four years from the commencement of their respective terms as herein specified. The term of the assessor who shall hold office on the 8th day of January, 1943, shall expire at twelve o'clock noon on said date, and the person elected assessor at the general election in 1942 shall succeed to said office at twelve o'clock noon on said 8th day of January, 1943.

At the general municipal election in 1943, there shall be elected four municipal court judges to succeed those judges whose respective terms of office expire on the 8th day of January, 1944, and at the general municipal election in each sixth year after 1943 the successors to said four municipal court judges shall be elected. and at the general municipal election in 1945 there shall be elected four municipal court judges to succeed those judges whose respective terms of office expire on January 8, 1946, and at the general municipal election in each sixth year after 1945, the successors to said last mentioned judges shall be elected, and at the general municipal election in 1947, there shall be elected four municipal court judges to succeed those judges whose respective terms of office expire on the 8th day of January, 1948, and at the general municipal election in each sixth year after 1947. the successors to said last mentioned judges shall be elected. The term of each municipal court judge shall be six years from and after twelve o'clock noon on the 8th day of January following his election. All terms of office of elective officials shall begin at twelve o'clock noon on the 8th day of January following the date of their election.

Any appointive officer or employee of the city and county who shall become a candidate for election by the people to any public office shall automatically forfeit such city and county office or position.

No person elected as mayor or supervisor shall be eligible, for a period of one year after his last day of said service as mayor or supervisor, for appointment to any full time position carrying compensation in the city and county service.

Should this amendment not be approved by the Legislature of the State of California so that the office of assessor may be voted for at the general election to be held in November, 1942, as in this section provided, then in that event the term of the incumbent in the office of assessor at twelve o'clock noon on the 8th day of

January, 1943, shall not expire at twelve o'clock noon on said date, but shall continue until the 8th day of January, 1944, and the office of assessor shall be filled at the general municipal election in 1943, for a three year term from said date, and said office of assessor shall again be filled at the general election in 1946 for a four year term from said date, and at the general election in each fourth year thereafter. [*Amended, 1941*]

Officers formerly elective and now appointive as within civil service, see § 62.

Irrespective of the question whether a charter provision that the term of an elective officer continues until his successor qualifies is applicable to an appointee to such office holding over, his term continues by virtue of the general rule to that effect which applies in the absence of statute or charter providing otherwise, and also by virtue of Gov. Code, § 1302, when this provision is made applicable by a charter provision making applicable to a city the general laws not inconsistent with the charter. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

SECTION 5.1. No person elected as mayor shall be eligible to serve, or serve, as such for more than two successive terms; but such service shall not disqualify any person for further service as mayor for any term or terms which are not successive, nor for any parts of terms which are not successive. [*New section, 1953*]

Absence from State, and Vacancies

SECTION 6. No officer of the city and county, except members of the police department acting under orders of the chief thereof, shall absent himself from the state, except by permission of the mayor and the board of supervisors. Violation of this section shall be sufficient cause for removal of any officer violating the same.

An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a crime involving moral turpitude, or of an offense involving a violation of his official duties, or is removed from office, or ceases to be a resident of the city and county, or neglects to qualify within the time prescribed by law, or within twenty days after his election or appointment, or shall have been absent from the state without leave for more than sixty consecutive days.

Qualifications of Officers and Employees

SECTION 7. No person shall be a candidate for any elective office, nor shall be appointed as a member of any board or commission or as an officer of the city and county unless he shall have been a resident of the city and county for a period of at least five years and an elector thereof for at least one year immediately prior to the time of his taking office, unless otherwise specifically provided in this charter. All employees of the city and county shall be citizens and shall have been residents thereof, for at least one year prior to the appointment, unless otherwise specifically provided in this charter, and members of the fire and police departments shall be citizens and shall have been residents of the city and county for at least five years next preceding appointment, and every elected officer, member of any board or commission and employee, including members of the fire and police departments, shall continue to be a resident of the city and county during incumbency of office or employment, and upon ceasing to be such resident, shall be removed from office or employment; provided that where competent citizens who are residents of the city and county cannot be secured to fill positions outside of the city and county, then non-resident citizens may be appointed to fill such positions; provided, further, that employees who at the time of original appointment to positions in city and county service were or at such time are residents of the city and county, and who now or at any time occupy positions the usual and major duties of which require their presence daily at places which are outside the city and county, may establish and continue residence in any county convenient to such place of duty for the duration of their employment at any such places, and shall have all rights in relation to any such employment or to any other position in any department of the city and county, including but not restricted to all rights respecting participation in examinations for appointment to, or occupancy of such other positions, to the same extent as though they had continued to be residents of the city and county during all of such time; and provided, also, that positions requiring expert or technical training may, on the recommendation of the department head and the mayor, and with the approval of the civil service commission and the board of supervisors, be exempted from the requirements of this section. A "resident" within the intent and purpose of this section, means one who actually lives within the city and county and maintains an abode therein, where such resident with his family, if any, customarily spends the night, provided, however, that residence outside the confines of the city and county for a period not to exceed three months in any calendar year, or absence of a resident from the city and county upon any bona fide journey, whether for business or pleasure and for whatever length of time, or absence of a resident while in the performance of any duties as an elected or appointed official or employee of the State of California or the government of the United States, shall not be within the contemplation of this section. Any officer or employee except elected officers of the city and county, however, may live outside the City and County of San Francisco upon authorization granted exclusively by the retirement board, if on the basis of medical and any other available information, that board believes that such authorization should be granted on account of the ill health of said officer or employee or the ill health of a member of the immediate family of said officer or employee. Such authorization and any modification or termination thereof shall be filed in the office of the civil service commission. Officers and employees shall make application for such authorization directly to the retirement board, on forms provided by the retirement board, without any requirement of prior application to or permission of any officer, board or commission. At the same time they shall file a copy of such application with their respective department heads, who shall have ten days thereafter in which to file any objections thereto with the retirement board. The retirement board may require medical examinations and such information in regard to any such application as it shall deem reasonable. Such authorization shall be terminated after sixty days notice, by the retirement board when in its opinion the authorization no longer is justified; and the retirement board may at any time, and from time to time shall, require such medical examinations and information as it may deem reasonable to determine the continued existence of such justification. Non-compliance with requests of the retirement board or any physician designated by it, shall be good cause for denial or termination of such authorization.

The retirement board shall review, without unnecessary delay, all authorizations to live outside the City and County of San

Francisco which have been granted by the Director of Public Health and which are now in effect. The board shall have the same powers in respect to such authorization as are provided herein in respect to authorizations granted by it. [*Amended, 1933; 1951; 1952*]

Both civil service and non civil service employees are included in the requirements of this section as to citizenship and one year's residence. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

This section has reference to appointees, not to examinees, and so an applicant for civil service examination may not successfully invoke its provisions to justify his failure to comply with the residential requirement of § 144 of the Charter. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

School teachers and employees of the school department are not included in the requirements as to residence laid down in this section for the employees of the City and County of San Francisco. **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

Cited without particular application. **Terry v. Civil Service Commission of San Francisco** (1952) 108 ACA 1009, 240 Pac. (2d) 691.

Bonds of Officers and Employees

SECTION 8. Unless otherwise provided in this charter, such officers and employees as may be specified by ordinance, shall give bond in such amounts as may be required by the ordinance, provided that the minimum amount of the bond to be furnished by the controller be $100,000; by the tax collector $100,000; by the county clerk $50,000, and by the public administrator $50,000. The board of supervisors shall provide by ordinance the terms, form and conditions of all such bonds and for the filing thereof. The sureties on such bonds shall be such as specified by and approved in the manner provided by ordinance. The board of supervisors may, by ordinance, provide for group bonding of officers and employees. The premiums on all official bonds shall be paid by the city and county. [*Amended, 1946*]

When a charter provides for an official bond of an officer in such penal some as may be fixed by ordinance, and in a later provision in a specified penal sum, inasmuch as the two provisions are in direct conflict, the later in point of position is controlling. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

By virtue of a charter provision making general laws applicable to a city and Gov. Code, § 1504, the obligation of a surety on an official bond continues when an officer, elected as his own successor fails to qualify for the successive term and yet continues in the duties of the office. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

Powers Vested in Board of Supervisors

Section 9. The powers of the city and county, except the powers reserved to the people or delegated to other officials, boards or commissions by this charter, shall be vested in the board of supervisors and shall be exercised as provided in this charter. The board of supervisors shall, ex officio, be the board of equalization for the city and county. It shall be the duty of the board of supervisors to canvass the vote cast at each election in the city and county, and certify the official count of such balloting. The supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the city and county and shall fix rates and schedules of compensation therefor in the manner provided in this charter. On the recommendation of the mayor and the chief administrative officer, the board of supervisors may create or abolish departments which are now or may hereafter be placed under the chief administrative officer or under commissions appointed by the mayor.

The board of supervisors may, by ordinance, confer on any officer, board or commission such other and additional powers as the board may deem advisable.

The board of supervisors, by ordinance, may provide medical care, hospitalization, compensation and such other benefits as the board may deem necessary for regularly authorized volunteer civilian defense workers suffering injury arising out of and in the course of their activities as such civilian defense workers.

Whenever the board of supervisors by ordinance shall declare that the public interest demand a night university, municipally established, maintained and controlled, they shall submit the proposal to the people, and if approved by a majority of the electors voting thereon, the board of supervisors may by ordinance provide for the establishment, maintenance and control of such a night university having courses of instruction in advance of the instruction maintained in high schools or junior colleges. Said university shall have the power to grant academic degrees and shall be open to any resident of the city and county qualified to enter and pursue the courses of instruction therein given. [*Amended, 1943*]

A contract for services of a civil engineer for a 5-year period to furnish information respecting transit and traffic conditions does not provide an invalid duplication of functions and duties of existing officers. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

The Charter imposes no limitation on the powers of the Supervisors to plan, study and legislate for civic betterment and improved conditions of municipal affairs. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Only those powers of the city which are not reserved to the people or delegated to other officials, boards or commissions, are vested in the Board of Supervisors, to be exercised as provided in the Charter. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Quoted in **King v. Leavy** (1932) 124 Cal. App. 422, 427, 12 Pac. (2d) 661.

The grant of power under this section imposes limitations upon the Board; it withholds power which other provisions of the Charter give to "other officials, boards and commissions." **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

Cited without particular application. **Madison v. San Francisco** (1951) 106 Cal. App. (2d) 232, 234 P2d 995.

Number, Compensation and Meetings of Supervisors

SECTION 10. The board of supervisors shall consist of eleven members elected at large, provided that for the period January 8, 1932, to January 8, 1934, the board shall consist of fifteen members. Each member of the board shall be paid a salary of twenty-four hundred dollars ($2,400) per year, and each shall execute an official bond to the city and county in the sum of five thousand dollars ($5,000).

At twelve o'clock noon on the 8th day of January next following their election, the newly elected and continuing members of the board of supervisors shall meet at the legislative chamber in the City Hall, and thereafter regular meetings shall be held as fixed by resolution. The supervisors constituting the new board shall, on January 8, 1932, and every second year thereafter, elect one of their number as president of the board for a two-year term. The president shall preside at all meetings, shall appoint all standing and special committees of the board and shall have such other powers and duties as the supervisors may provide.

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place. The board shall cause a calendar of the business scheduled for each meeting to be published and shall keep and publish a journal of its proceedings. Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

Suspension and Removal

SECTION 11. Any elective officer, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service, recreation and park, and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part. [*Amended, 1935; 1949(2). See Sec. 11, Art. VI of the Constitution*]

LEGISLATIVE PROCEDURE

Clerk of the Board of Supervisors

SECTION 12. Subject to the civil service provisions of this charter the board of supervisors shall appoint a clerk, who shall be designated as clerk of the board of supervisors, provided, however, that any person who has performed the duties of clerk of the board of supervisors continuously for one year prior to the date of approval of this amendment by the electorate and who on said date shall be performing said duties, is hereby confirmed in said position and thereafter shall hold the same pursuant to said civil service provisions of this charter. The clerk shall, ex-officio, be clerk of the board of equalization. The clerk shall have charge of the office and records of the board and its committees, and the personnel employed to handle the business, affairs and operations of the board, its committees and members when engaged in official duty. The clerk shall be the appointing officer for such personnel, subject to the civil service provisions of this charter. The clerk shall keep a journal of proceedings of the board and files of all ordinances and resolutions and properly index the same. He shall be responsible for the publication, as required by law, of ordinances, resolutions and other matters acted on by the board for which publication is specified. He shall have such other duties and responsibilities as the board shall prescribe. [*Amended, 1948*]

Action by Resolution or Ordinance

SECTION 13. Action by the board of supervisors shall be by ordinance or resolution in writing introduced by a member or by a committee of said board and passed or adopted by a majority of all the members of the board at each reading. Every legislative act shall be by ordinance. The enacting clause of all ordinances shall be, "Be it ordained by the people of the City and County of San Francisco." Every ordinance and resolution, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, and ordinances making annual or supplemental appropriations shall be confined to the subject of appropriations.

If any subject is embraced in an ordinance and is not expressed in the title thereof, the ordinance shall be void only as to so much thereof as is not expressed in the title. Any ordinance may be amended by an ordinance amending or repealing the particular sections thereof or adding sections thereto.

An ordinance shall be passed by the board of supervisors only after reference to and report thereon from committee, unless it be an ordinance prepared and reported out by committee, and after two readings and votes at separate meetings of the board, which meetings shall be at least five days apart; provided, however, that as to an emergency measure as defined in section 16, reference to committee or the readings and votes at separate meetings may be waived by a three-fourths vote of all members of the board. The existing or impending emergency as defined in such ordinance shall be declared by specific section in such emergency ordinance. The annual appropriation ordinance shall be passed only after two readings, not less than five days apart, and the second or final passage shall be not less than fifteen days after the introduction of each ordinance.

No ordinance granting a franchise shall be finally passed within ninety days of its introduction.

No resolution shall be adopted by the board of supervisors on the date of its introduction and without reference to committee, except by the unanimous consent of the supervisors present.

Except as otherwise provided in this charter, or by ordinance, notice of the title or the purport and subject matter of each proposed ordinance which is introduced and referred to committee shall be published within three days after its presentation to the board and a copy of such proposed ordinance shall be kept available for inspection in the office of the clerk of the board. All ordinances shall be published upon passage for second reading. Emergency ordinances shall be published immediately on passage. The term ''published'' as used in this charter shall mean publication in the official newspaper as required by charter. The official newspaper is hereby defined to be a daily newspaper of general circulation, published in the city and county and which has a bona fide daily circulation of at least 8,000 copies.

The vote on all ordinances and resolutions upon each reading shall be by ayes and noes. The vote by ayes and noes on all measures shall be recorded in the journal of the proceedings of the board. [*Amended, 1935; 1953*]

Resolution.—The Board of Supervisors could by resolution, approved by the Mayor, authorize contracts designed to put into effect the purposes and aims of the Housing Authorities Law. **Kleiber v. San Francisco** (1941) 18 Cal. (2d) 718, 117 Pac. (2d) 657.

Action designed merely to carry into effect law already enacted is administrative rather than legislative action and may be taken by resolution. **Kleiber v. San Francisco** (1941) 18 Cal. (2d) 718, 117 Pac. (2d) 657.

Any ordinance passed by a municipal corporation within the scope of the authority expressly conferred on it has the same force within its corporate limits as a statute passed by the Legislature has throughout the state. But an ordinance can no more change or limit the effect of the Charter than a statute can modify or supersede a provision of the Constitution. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

Compliance with Section.—No ordinance is valid unless and until the mandatory prerequisites to its enactment and performance are substantially observed. **Sullivan v. McKinley** (1939) 14 Cal. (2d) 113, 92 Pac. (2d) 892.

Although an ordinance is invalid if the mandatory prerequisites to its enactment are not substantially observed, it is sufficient if there is a substantial compliance with the prescribed procedural steps. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

Reference to Committee.—A resolution, as distinguished from an ordinance, need not be referred to a committee and come out of the committee before it can be considered. In the sentence, "no other resolution shall be adopted on the day of its introduction," the word "resolution" is an inadvertence and should read "ordinance." **Skelly Estate v. San Francisco** (1937) 9 Cal. (2d) 28, 69 Pac. (2d) 171.

Exercise of powers of City and County to be by ordinance or resolution, see § 2.

Emergency measures, see also notes under § 16.

Emergency action by mayor without passage of ordinance, see notes under § 25.

Waiver of Statutes of Limitation

SECTION 13.1. Any ordinance or resolution waiving, or authorizing the waiving, by the city and county of the benefit of any statute of limitation of a state, or of the United States, available to the city and county in any action or proceedings against it shall require for its passage a three-fourths vote of all members of the board of supervisors on each reading. [*New section, 1949*]

Approval by Mayor—Reconsideration and Veto

SECTION 14. Each proposed resolution or ordinance voted on by the supervisors and failing of passage and each ordinance or resolution adopted by the supervisors shall, within twenty-four hours of such action, be transmitted to the mayor by the clerk of the board, with appropriate notation of the action of the board thereon. Any resolution acted upon by the board of supervisors by unanimous consent of those present on the date of the introduction of such resolution and any ordinance adopted by the board as an emergency measure shall be acted upon by the mayor within three days after receipt thereof by him from the clerk of the board. All other ordinances or resolutions shall be acted upon by the mayor within ten days of such receipt.

The mayor shall either approve each resolution or ordinance adopted by the supervisors by signing and returning same to the clerk of the board within the time limit, or he shall disapprove and veto any resolution or ordinance, or veto or reduce any separate appropriation item therein and shall return each such resolution or ordinance to the clerk of the board with his written objections within the time limit. His failure to make such return shall constitute approval and such ordinance or resolution shall take effect without the mayor's signed approval. The clerk of the board shall note such fact on the official copy of such resolution or ordinance. If any separate appropriation item in any resolution or ordinance is vetoed or reduced by the mayor as herein provided the remainder of any such ordinance or resolution may be approved by the mayor and, if not specifically approved by the mayor, shall take effect without such approval and shall be so noted by the clerk of the board.

The board of supervisors may reconsider any resolution or ordinance vetoed or disapproved, or any separate appropriation item vetoed or reduced by the mayor, and if, after such reconsideration, two-thirds of all the members of the board shall vote in favor of passage thereof, it shall become effective notwithstanding the mayor's veto. If a larger vote is required for the adoption of a measure by the provisions of this charter, such larger vote shall be required to overcome the veto of the mayor. The vote of reconsideration of each such vetoed resolution, ordinance or separate appropriation item therein shall be taken at the convenience of the board. If the ordinance, resolution or separate appropriation item is not passed over the mayor's veto within thirty days, the measure or item shall be lost.

In the event of any absence of the mayor for which he or the board of supervisors has failed to designate an acting mayor, no resolution or ordinance adopted by the board of supervisors shall take effect by reason of the failure of the mayor to approve, or disapprove, and return such resolution or ordinance within the time limits applicable thereto, and, in such case, the time periods or limitations as fixed by this section shall not start until an acting mayor is appointed by the mayor or elected by the supervisors, as in this charter provided, or the return of the mayor.

Any proposed resolution or ordinance voted on by the board of supervisors and failing of passage shall be reconsidered by the board on the written request of the mayor, stating his reasons therefor, filed with the clerk of the board by the mayor within ten days of the board's action on such resolution or ordinance. The board shall reconsider such measure at its convenience, but not later than thirty days after the filing of the mayor's request therefor.

Record, Publication and Effect of Ordinances and Resolutions

Section 15. All ordinances, after final passage or upon their becoming effective shall be certified by the clerk of the board and recorded in a book kept for that purpose, and resolutions adopted shall be certified and recorded in like manner. Except in case of an emergency measure passed and not previously published, and except as otherwise specified in this charter, publication of ordinances and resolutions in full shall not be required after final passage. Notice that an ordinance or resolution has passed or become final shall be published once within five days of such final passage. To amend an ordinance which has proceeded to second reading shall require publication of the ordinance as amended and proceeding de novo.

An ordinance enacted with all the formalities required by law does not cease to be a valid ordinance by virtue of the failure of the proper officials to publish it periodically pursuant to statutory requirement. **People v. Crittenden** (1949) 93 ACA Supp. 369, 209 Pac. (2d) 161.

Emergency Measures and Effective Date of Ordinances

Section 16. No ordinance which is subject to the referendum provisions of this charter shall become effective until thirty days after its passage. Ordinances granting any public utility franchise or privilege shall not become effective until sixty days after their passage. Other ordinances shall not become effective until ten days after their passage unless enacted by a three-fourths vote of all the members of the board as an emergency measure as defined in this sction. No ordinance affecting franchises, grants, bond issues or the sale, lease or purchase of land shall ever be passed as an emergency measure, and the people by initiative or referendum ordinance may further restrict the matters that may be passed as emergency measures. Immediate necessary preservation of public peace, property, health or safety, provision for the uninterrupted operation of any city and county department or office, or action required to comply with time limitations as established by law, shall be emergencies within the meaning hereof; provided, however, that such emergency shall actually exist and shall be specifically stated and defined in such ordinance, and shall be specifically voted on as provided in section 13 of this charter. [*Amended, 1935*]

Although the Charter can extend the limitations on the powers of the Supervisors, and thereby add to the reserved powers in the electors, it cannot by definition or otherwise limit the reserved power of referendum defined in Const. art. iv, § 1. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

The constitutional provision that no measure creating or abolishing any office or changing the salary, term or duties of any offcer shall be construed as an emergency measure (Const. art. iv, § 1) defined in part what the reserved power of referendum shall be, and any ordinance in conflict therewith is invalid. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

The constitutional reservation of referendum (Const. art. iv, § 1) is read into and becomes a part of the Charter with the same effect as though it had been expressly incorporated therein, in view of Const. art. xi, § 8, permitting a city or city and county to frame a Charter for its own government "consistent with and subject to this Constitution." **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

A police captain is a public officer within Const. art. iv, § 1, declaring that no measure creating or abolishing any office, or changing the salary, term or duties of any officer shall be construed to be an emergency measure. Accordingly, an ordinance passed as an emergency measure is void where it creates additional positions as captains of police, and a further ordinance purporting to appropriate funds to pay the salaries attached to such offices should fall with it. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

Emergency action of mayor without passage of ordinance, see notes under § 25.

Codification of Ordinances

SECTION 17. Ordinances previously adopted and continuing in force may be codified or recodified or rearranged by ordinance. Any such ordinance shall supersede and repeal all general ordinances in effect prior thereto and shall be construed to be confined to a single subject.

Any such ordinance shall require publication only in bound or loose leaf book form, which shall constitute publication for all purposes. Any such publication shall contain certificates of the mayor, the clerk of the board of supervisors and the city attorney of the correctness of such codification and publication.

Any such ordinance shall be amended by an ordinance amending or repealing the particular sections thereof or adding sections thereto. For the purposes of any codification and the validity thereof, the procedure, effect, adoption or enactment and publication of any prior codification, including the enacting ordinance, amendments thereto, the contents of any such code, the certification and publication thereof and all other proceedings and matters in respect thereto, shall be deemed to be valid.

With any publication of the charter, there shall be included initiative ordinances and digests of reported court decisions relating to said charter and ordinances.

The board of supervisors shall have power to enforce by appropriate legislation the provisions of this section. [*Amended, 1953*]

GENERAL POWERS AND DUTIES OF BOARDS, COMMISSIONS, DEPARTMENT HEADS AND OFFICERS

Powers and Duties of County Officers

SECTION 18. Each county officer shall have all the powers conferred and shall discharge all the duties imposed by general laws upon said officer of a county or a city and county of this state, and shall have such other powers and duties as in this charter specifically provided.

This section in enjoining officers to discharge their duties as imposed by general laws did not incorporate the general laws into the Charter. A reference to a general law for one express purpose does not incorporate the law in any other respect. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

This section did not incorporate into the Charter Pol. Code, § 4001, vesting the power to fix salaries in the Board of Supervisors. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Powers and Duties of Boards and Commissions

SECTION 19. The board of supervisors and each board and commission appointed by the mayor, or otherwise provided by this charter, shall have powers and duties as follows:

(a) To prescribe reasonable rules and regulations not inconsistent with this charter for the conduct of its affairs, for the distribution and performance of its business, for the conduct and government of its officers and employees, and for the administration, custody and protection of property under its control and books, records and papers appertaining to its affairs. The board of supervisors, by ordinance, may provide that rules and regulations of any board or commission, or general orders of any department head issued by authority of any board or commission that are of general public concern shall be published or posted.

(b) To appoint one of its members as president to hold office for such term as each such board or commission by its rules or regulations, not inconsistent with this charter, may prescribe.

(c) To establish such standing or special committees as it shall deem necessary.

(d) To receive, on behalf of the city and county, gifts, devises and bequests for any purpose connected with or incidental to the department or affairs placed in its charge, and to administer, execute and perform the terms and conditions of trusts or any gift, devise or bequest which may be accepted by vote of the people or by the board of supervisors for the benefit of such department or purpose, and to act as trustees, under any such trust, when so authorized to do by the board of supervisors. The title to all real and personal property now owned or hereafter acquired by gift, devise, bequest or otherwise, by and for the purposes of any board or commission shall vest in the city and county.

(e) To require such periodic or special reports of departmental operations, costs and expenditures under its control as may be necessary and, exclusive of the board of supervisors, to submit an annual report to the mayor.

(f) To hold meetings at regular fixed dates and at regular meeting places, which dates or places shall not be changed except as in the manner provided by section 10 for the meeting times and places of the board of supervisors. All such meetings shall be open to the public.

(g) To hold special meetings for the purposes and in the manner provided by the board of supervisors by ordinance, provided that no matter may be considered at any special meeting unless specifically designated in the notice calling such special meeting.

(h) To appoint a secretary, a superintendent, or other executive to be the administrative head of the affairs under its control, who, unless otherwise specifically provided, shall not be subject to the civil service provisions of this charter, and shall hold office at its pleasure.

(i) To require a bond or other security from each such executive officer and from any employee in such form as the board of supervisors may authorize and in such amount as the mayor, on the recommendation of the controller, may approve, the premiums on such bonds to be paid by the city and county.

A quorum for the transaction of official business shall consist of a majority of all the members of each board or commission, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to penalties to be provided by ordinance. A majority, two-thirds, three-fourths, or other vote specified by this charter for any board or commission shall mean a majority, two-thirds, three-fourths, or other vote of all the members of such board or commission. Each board or commission shall keep a record of the proceedings at each meeting and a copy thereof shall be forwarded promptly to the mayor.

Powers.—Municipal boards and commissions have only such powers as are conferred upon them. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

Quasi-judicial powers may be conferred by the Charter on boards or commissions. **Hogan v. Retirement Board** (1936) 13 Cal. App. (2d) 676, 57 Pac. (2d) 520; **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513; **Naughton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 254; **Murphy v. Retirement Board** (1942) 49 Cal. App. (2d) 58, 121 Pac. (2d) 101; **Brant v. Retirement Board** (1943) 57 Cal. App. (2d) 721, 135 Pac. (2d) 396; **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549; **Dornell v. Retirement Board** (1945) 72 Cal. App. (2d) 197, 164 Pac. (2d) 266.

Constitution, art. XI empowers a municipality to confer by charter provision quasi-judicial powers on local boards or commissions in dealing strictly with municipal affairs, such as the power to determine facts, but that provision of the Constitution does not automatically confer such powers nor require the municipality to do so. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

If the Charter does not expressly or impliedly confer quasi-judicial power on local boards or commissions the power does not exist. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

The rule making power vested by the Charter in a municipal agency must be exercised in conformity with all charter provisions and any rule adopted by such agency which has the effect of opening the way to circumvent or nullify charter provisions is, to that extent, inoperative and void. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

The courts are not charged with the responsibility of determining the wisdom of a rule adopted by a board of police commissioners. If the rule concerns the government and discipline of the police department and is reasonable, it must be held to be valid. **Cleu v. Board of Police Commissioners** (1906) 3 Cal. App. 174, 84 Pac. 672; **Perez v. Board of Police Commissioners of Los Angeles** (1947) 78 Cal. App. (2d) 638, 178 Pac. (2d) 537.

Failure to prescribe a separate and distinct penalty for the violation of each rule or regulation does not render the rules and regulations of the police department invalid is in violation of state law, since the city Charter and not the general law controls. **Shrewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429. (See cases under § 2.)

Mandamus or certiorari may be used to review the determinations of local boards or commissions, and whichever method of review is adopted the scope of review is the same. **Naughton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 714.

In mandamus to review the action of a local administrative board in the exercise of its discretionary or quasi-judicial powers, it must be alleged and proved that the board acted arbitrarily, fraudulently or capriciously, or in abuse of its discretion unless it appears, as a matter of law, from the pleadings that the board exceeded its powers. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

Grounds for Judicial Interference with Decisions.—A determination of a local board or commission in the exercise of the fact finding powers conferred upon it by charter will not be set aside by the courts unless an abuse of discretion is alleged and proved, that is, unless the board or commission is shown to have acted arbitrarily, capriciously or fraudulently. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

When a municipal board or commission exceeds or abuses its powers it is not only within the power but it is the duty of the courts to prevent such excess or abuse upon the petition of those adversely affected. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

Review of action by Police Commission, see notes under § 155.

Review of action of Civil Service Commission, see notes under § 154.

Powers and Duties of Department Heads

Section 20. Each elective officer in charge of an administrative office, the chief executive appointed by each board or commission, the controller, the chief administrative officer, and each department head appointed by the chief administrative officer shall have the powers and duties of a department head, except as otherwise specifically provided in this charter.

Each appointive department head shall be immediately responsible to the chief administrative officer or the board or commission, as the case may be, for the administration of his department, and shall file an annual report and make such other reports, estimates and recommendations at the time and in the manner required by law, or as required by the chief administrative officer, board or commission.

He shall act as the ''appointing officer'' under the civil service provisions of this charter for the appointing, disciplining and removal of such officers, assistants and employees as may be authorized. On the written recommendation of the department head concerned and the approval of the chief administrative officer, board or commission to whom such department head is responsible, the head of any utility, institution, bureau or other subdivision of such department may be designated as the ''appointing officer'' for such utility, institution, bureau or other subdivision. Non-civil service appointments and any temporary appointments in any department or subdivision thereof, and all removals therefrom shall be made by the department head or bureau head designated as the appointing officer only with the approval of the chief administrative officer or the board or commission in charge, as the case may be.

He shall issue or authorize all requisitions for the purchase of materials, supplies and equipment required by such department, provided that, on the written approval of the chief administrative officer or the board or commission in charge of any department, the head of any utility, institution, bureau or other subdivision of a department may likewise be vested with such power. Each department head or the head of a utility, institution, bureau or other subdivision of each department shall be responsible for the proper checking of all materials, supplies and equipment ordered for its purposes, and for the approval or disapproval of bills-for claims rendered for such materials, supplies or equipment.

The head of any department, through the chief administrative officer or the board or commission in charge thereof shall recommend to the board of supervisors such ordinances as may be required to carry out the powers vested and the duties imposed, and to establish or readjust fees or charges for permits issued to or work performed for persons, firms or corporations when these are subject to his or its jurisdiction.

Each department head may suggest the creation of positions subject to the provisions of this charter, and may reduce the forces under his jurisdiction to conform to the needs of the work for which he is responsible, any other provisions of this charter to the contrary notwithstanding.

The mayor, the chief administrative officer, or the board or commission concerned, on the recommendation of any department head, or on his or its own motion, may combine or may transfer and redistribute among departments or offiees under his or its authority, respectively, any function or duty assigned to or continued by this charter in any department.

In compliance with the provisions of the Charter empowering the board of fire commissioners to reduce the force in conformity with the needs of the work in the department that board could return a captain in the department to the rank of lieutenant. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

Power of Hearing, Inquiry and Subpoena

Section 21. The mayor, the board of supervisors, the chief administrative officer, the controller, or any board or commission appointed by the mayor relative solely to the affairs under its control, may require such periodic or special reports of departmental costs, operation and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the city and county, and for that purpose may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. It shall be the duty of the chief of police to designate a police officer to serve subpoenas. Any person refusing to obey such subpoena and the other requirements hereof, or to produce such books, shall be deemed in contempt and subject to proceedings and penalties as provided by general law in such instances.

Jurisdiction of a police board to try charges against a police officer was not defeated by an allegation in one charge that the order which the officer refused to obey was "lawful," where such allegation, even though a mere conclusion of law, was superfluous and where the second charge against the officer was well pleaded. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

General powers conferred by this section on boards operating under the Charter, enumerated. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

Non-interference in Administrative Affairs

Section 22. Except for the purpose of inquiry, the mayor and the board of supervisors shall deal with the administrative service for which the chief administrative officer is responsible, solely through such officer, and for administrative or other functions for which elective officials or boards or commissions are responsible, solely through the elective official, the board or commission or the chief executive officer of such board or commission concerned. Except for the purpose of inquiry, each board or commission, in its conduct of administrative affairs under its control, shall deal with such matters solely through its chief executive officer.

Neither the board of supervisors, nor its committees, nor any of its members shall dictate, suggest or interfere with appointments, promotions, compensations, disciplinary actions, contracts, requisitions for purchases or other administrative recommendations or actions of the chief administrative officer, or of department heads under the chief administrative officer, or under the respective boards and commissions. The board of supervisors, and each board or commission relative to the affairs of its own department, shall deal with administrative matters only in the manner provided by this charter, and any dictation, suggestion or interference herein prohibited on the part of any supervisor or member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the power of hearing and inquiry as provided in this charter.

A resolution of the Board of Supervisors passed in the proper exercise of its charter powers, and in compliance with which an action was commenced by the City to abate a stable as a public nuisance, did not constitute an unauthorized interference with the charter powers of the Director of Health to issue or refuse a permit to conduct such stable. **People v. Ryan** (1936) 17 Cal. App. (2d) 1, 61 Pac. (2d) 360.

An action by the city to abate a stable as a public nuisance is not barred by proceedings before the proper authorities to obtain a permit to maintain and operate the stable. **People v. Ryan** (1936) 17 Cal. App. (2d) 1, 61 Pac. (2d) 360.

Administrative Code

Section 23. The powers and duties of the departments and offices which by this charter are established or continued as departments or offices under elective officers, boards or commissions or the chief administrative officer, as such powers and duties exist at the time this charter shall go into effect, shall be continued as powers and duties of each such department or office, except as otherwise provided in this charter.

The board of supervisors may enact and provide for the publication in printed form of an administrative code, which shall specify or detail the powers, duties, methods and procedure in the several departments and offices.

Permits and Inspections

Section 24. The board of supervisors shall regulate, by ordinance, the issuance and revocation of licenses and permits for the use of, obstruction of or encroachment on public streets and places, exclusive of the granting of franchises governed by other provisions of this charter; and for the operation of businesses or privileges which affect the health, fire-prevention, fire-fighting, crime, policing, welfare or zoning conditions of or in the city and county, and for such other matters as the board of supervisors may deem advisable.

Such ordinance shall fix the fees or licenses to be charged, which shall not be less than the cost to the city and county of regulation and inspection; provided, that in so far as the regulation and inspection of foodstuffs or articles of food for human consumption are concerned, the fees or licenses to be charged for such regulation and inspection shall be as determined by the board of supervisors, but the same shall not exceed the cost of said regulation and inspection. Said ordinance shall also specify which department shall make the necessary investigations and inspections and issue or deny and may revoke the permits and licenses therefor. The chief of police in the performance of police duties shall have power to examine at any time the books and the premises of pawnbrokers, peddlers, junk and second-hand dealers, auctioneers and other businesses designated by the board of supervisors, and the tax collector shall have power to examine the books of any business for which a license is issued and a fee charged on the basis of the receipts of such business, and for these purposes such officials shall have the power of inquiry, investigation and subpoena, as provided by this charter.

Permits and licenses shall be issued by the departments as designated by ordinance, only after formal application for such permit or license. No such permit or license that is dependent on or affected by the zoning, set-back or other ordinances of the city and county administered by the city planning commission shall be issued except on the prior approval of the city planning commission. If any application for a permit or license is denied by the department authorized to issue same, the applicant may appeal to the board of permit appeals.

No license tax shall be imposed on any seller or manufacturer of goods, wares or merchandise operating at a fixed place of business in the city and county, except such as require permits or licenses in accordance with or under authority of any local health, sanitary or other ordinance under the police power. [*Amended, 1937*]

The Board of Supervisors has the power to impose a license tax under this section to defray the cost of inspection, upon any seller operating at a fixed place of business which requires a permit or license in accordance with or under authority of any local health, sanitary or other ordinance under the police power, and such power is not limited, as was the case under the former Charter, to places of business which require permits from the board of police commissioners. **In re McKeon** (1935) 9 Cal. App. (2d) 223, 49 Pac. (2d) 618.

The levy of license taxes for revenue is not prohibited by the section, except as prohibited by the concluding paragraph relating to sellers or manufacturers of goods, wares and merchandise, operating at fixed places of business. An intention to preclude such levy is not to be drawn from the clause "and for such other matters as the board of supervisors may deem advisable." **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

The rule expressio unius est exclusio alterius cannot operate in construction of the section in view of the fact that the Charter is an instrument of limitations and restrictions. **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

The rule that taxing statutes must be strictly construed against the taxing power cannot have the effect of restricting the city's power to exercise the right except to the extent that such right is expressly limited by the provisions of the Charter, in view of the fact that the Charter is an instrument of limitations and restrictions. **West Coast Advertising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

Inasmuch as the imposition of a tax for revenue purposes is a municipal affair, and as the Charter is a limitation, not a grant, of power, the city has the power to impose a tax for such purpose where such power was not taken from it by the Charter itself. **In re Nowak** (1921) 184 Cal. 701, 195 Pac. 402; **West Coast Adevrtising Co. v. San Francisco** (1939) 14 Cal. (2d) 516, 95 Pac. (2d) 138.

San Francisco has power under its Charter to levy license taxes for revenue purposes on any and every kind of business except that conducted by a seller or manufacturer of goods, wares or merchandise who operates at a fixed place of business in the city and county and who is not required to procure a permit in accordance with or under authority of any local health, sanitary or other ordinance under the police power. **Flynn v. San Francisco** (1941) 18 Cal. (2d) 210, 115 Pac. (2d) 3.

Building Permits.—In line with this section, the Central Permit Bureau has been designated as the agency empowered to grant or refuse building permits (Municipal Code, part II, chapter I, Building Code, art. 3, §§ 55, 56). **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

Tax on Automobile Supply Stations.—An appeal from a judgment enjoining the collection of a tax of $40 per quarter on automobile supply stations on the ground that the tax was unreasonable, oppressive and discriminatory and was a license tax for revenue rather than for regulation was dismissed where the first ground was not challenged by appellants and found support in the record, and the question whether the municipality had power to impose such license tax for revenue had become moot by reason of an amendment of the ordinance reducing the quarterly license tax on automobile supply stations from $40 to $6.25. **Equi v. San Francisco** (1936) 13 Cal. App. (2d) 140, 56 Pac. (2d) 590.

Tax on Vehicles.—Provisions of a so-called license ordinance imposing a license tax on trucks, taxicabs and other vehicles operating in the streets and fixing the schedules to be paid according to the size and type of the listed vehicles are invalid as double taxation where the assessments are based on ownership of the vehicles rather than on operation and are for the same purpose and determined in the same manner as the regular ad valorem taxes levied by the city on all property owners. **Flynn v. San Francisco** (1941) 18 Cal. (2d) 210, 115 Pac. (2d) 3.

A permit to maintain and operate a stable, had it been issued, would not have authorized the permittee to conduct the stable in such a manner as would have constituted a nuisance or to conduct the stable business in a building so dilapidated as to be a nuisance. **People v. Ryan** (1936) 17 Cal. App. (2d) 1, 61 Pac. (2d) 360.

Fee for Inspection of Butcher Shop.—Ordinance 2917 (new series), providing that upon application the Board of Health shall inspect the business premises to ascertain whether they are sanitary and to issue a certificate, and ordinance 3.0412, providing for the amount of the fee, are not, when read together as being in pari materia, invalid or violative of this charter section, and a retail butcher whose place had been inspected and who refused on demand to pay the six-dollar inspection fee was liable to fine or an alternative jail sentence. **In re McKeon** (1935) 9 Cal. App. (2d) 223, 49 Pac. (2d) 618, distinguishing **In re Hadeler** (1923) 61 Cal. App. 630, 215, Pac. 562, and **John Rapp & Son v. Kiel** (1911) 159 Cal. 702, 115 Pac. 651, decided under the old Charter.

Revocation of License for Refusal to Return Stolen Property.—A resolution of the Police Commission permitting it to determine whether property in possession of a second-hand dealer was stolen, and if stolen, to revoke the dealer's license upon his failure to return the property to its owner, is not unconstitutional as empowering the Police Commission to hear and determine title to personal property without notice. **Willer v. Quinn** (1935) 4 Cal. App. (2d) 663, 4 Pac. (2d) 572.

The Police Commission, in adopting a resolution to the effect that the Chief of Police or other designated member of its department could inquire into a claim that property pawned with a second-hand store was stolen and revoke the dealer's license if he refused to return the stolen property to the owner, exercised legislative rather than judicial functions, and its acts pursuant to such resolution could not be inquired into by a writ of review. **Willer v. Quinn** (1935) 4 Cal. App. (2d) 663, 41 Pac. (2d) 572.

A second-hand dealer could not successfully contend that the Police Commission was without jurisdiction to hear a complaint asking revocation of his license for refusal to turn over stolen property to its owner, to issue citation and to revoke his license, where such proceeding was taken under a valid resolution adopted by the Commission. **Willer v. Quinn** (1935) 4 Cal. App. (2d) 663, 41 Pac. (2d) 572.

In a taxpayer's suit to restrain the use of the exposition auditorium for boxing and wrestling matches, the court found it unnecessary to pass upon the issue as to whether the agreement permitting such use of the auditorium was void for lack of compliance with the method prescribed by the Charter, but concluded that the staging of boxing and wrestling matches and other sports could not be held contrary to the public welfare as a matter of law. **Lynch v. San Francisco** (1935) 3 Cal. (2d) 141, 43 Pac. (2d) 538.

An applicant for a license may appeal to the Board of Permit Appeals if he is a victim of unjust discrimination. **People v. Galena** (1937) 24 Cal. App. (2d) (Supp.) 770, 780, 70 Pac. (2d) 724.

Licenses for revenue.—Bus. & Prof. Code, § 16000, declaring that cities may license businesses for the purpose of regulation only, has no application to a city whose charter adopted before the enactment of such code section specifically provided for licensing for revenue purposes. (Bus. & Prof. Code, § 16003.) **Redwood Theatres, Inc. v. City of Modesto** (1948) 86 Cal. App. (2d) 1110, 116 Pac. (2d) 119.

Even though a freeholders' charter does not specifically grant power to license businesses for revenue, it constitutes a valid authorization to enforce its ordinances in that respect, if it contains no restrictions or limitations in that regard. **Redwood Theatres, Inc. v. City of Modesto** (1948) 86 Cal. App. (2d) 1110, 116 Pac. (2d) 119.

A charter provision authorizing a city to levy and enforce the collection of license taxes on businesses within the city for purposes of revenue is one in respect of municipal affairs, and is therefore, valid. (Const. Art. xi, § 8 (j).) **Redwood Theatres, Inc. v. City of Modesto** (1948) 86 Cal. App. (2d) 1110, 116 Pac. (2d) 119.

The City and County has power to impose license taxes either for regulation or for revenue or for both, except in reference to matters of statewide concern where the state has occupied the field, in which case it can regulate only in respect of matters purely local. **San Francisco v. Boss** (1948) 83 Cal. App. (2d) 445, 189 Pac. (2d) 32.

A municipality's imposition of a gross receipts tax for revenue on persons engaged in various businesses and occupations, is strictly a municipal affair within Const. Art. xi, § 6, as amended in 1914, and is within the authority of a freeholders' charter city whose charter contains no limitations or restrictions on its power to levy taxes for revenue purposes. **Franklin v. Peterson** (1948) 87 Cal. App. (2d) 727, 197 Pac. (2d) 788, involving the validity of an ordinance of Los Angeles.

An ordinance requiring contractors to obtain certificates of registration or license before engaging in business (§§ 76, 200-207) is invalid where it operates in the field occupied by the State Contractor's Law (Stats. 1929, ch. 791, now Bus. & Prof. Code, § 7000 et seq.), and makes no attempt to regulate in matters purely local, and where the purpose of the ordinance, including the licensing provision, is regulation and not revenue. **San Francisco v. Boss** (1948) 83 Cal. App. (2d) 445, 189 Pac. (2d) 32.

Const. Art. xx, § 22, reserving to the state the exclusive power to license and regulate the manufacture, sale, etc., of intoxicating liquor within the state, being special in nature and adopted subsequent to Const., Art. xi, § 6, permitting chartered municipalities to reserve to themselves control of their municipal affairs subject only to express prohibition or limitation, controls in the express field that it covers, but its effect on the plenary power of taxation possessed by a chartered municipality should not be extended beyond the express terms of the constitutional reservation of the subject of intoxicating liquors. **Ainsworth v. Bryant** (1949) 34 Cal. (2d) 465, 211 Pac. (2d) 564, on hearing after 90 ACA 770, 203 Pac. (2d) 836.

A city may lay a tax, measured by gross receipts, on the local activities of independent contractors engaged exclusively in the business of furnishing maintenance and repair services to ships employed only in interstate and foreign commerce while the ships are in harbor. **Martin Ship Service Co. v. City of L. A.** (1950) 34 Cal. (2d) 793, 215 Pac. (2d) 24, on hearing after 92 ACA 990, 208 Pac. (2d) 387.

A municipal business license tax on theatres and certain other amusement businesses was based on a proper classification, although other named amusement businesses were exempted therefrom, where, among other things, the tax was laid on those businesses charging admissions and dealing with larger groups of people. **Fox etc., Corporation v. City of Bakersfield** (1950) 36 AC 73, 222 Pac. (2d) 879.

There is no requirement that an excise tax levied for revenue by a municipality be reasonable in amount; the only restriction on the exercise of a power to impose such a tax are the Constitution, the Charter, if it is a charter city, and the statutes if it is not. **Fox etc., Corporation v. City of Bakersfield** (1950) 36 AC 73, 222 Pac. (2d) 879.

A revenue ordinance purporting to impose a tax on insurance companies or on an agent of such company is invalid under Const. Art. xiii, § 14-4/5. **Groves v. City of Los Angeles** (1949) 93 Cal. (2d) 17, 208 Pac. (2d) 254.

POWERS AND DUTIES OF ELECTIVE OFFICERS

The Mayor

Section 25. The mayor shall be the chief executive officer of the city and county upon whom process issued by authority of law shall be served. He shall be an elective officer and his compensation shall be fixed in accordance with the salary standardization provisions of this charter. He shall furnish an official bond in the sum of twenty-five thousand dollars ($25,000). He shall appoint, and at his pleasure may remove, an executive secretary and one confidential secretary, and one stenographer. The board of supervisors may annually appropriate additional sums to be expended by the mayor for purposes and duties incidental to the administration of the office of mayor, which shall be subject to the provisions of this charter relative to appropriations and the payment of claims. He shall, at the first meeting of the board of supervisors in October of each year, communicate by message to the supervisors a general statement of the condition of the affairs of the city and county, and recommend the adoption of such measures as he may deem expedient and proper.

The mayor shall be responsible for the enforcement of all laws relating to the municipality and for the review and submission of the annual executive budget; he shall supervise the administration of all departments under boards and commissions appointed by him; he shall receive and examine, without delay, all complaints relating to the administration of the affairs of the city and county, and immediately inform the complainant of findings and actions thereon; and he shall coordinate and enforce cooperation between all departments of the city and county. The mayor shall have power to postpone final action on any franchise that may be passed by the supervisors until such proposed franchise shall have been voted on at the next election.

The mayor shall appoint such members of boards or commissions and other officers as provided by this charter. He shall appoint for the unexpired term of the office vacated, a qualified person to fill any vacancy occurring in any elective office.

The mayor shall have a seat but no vote in the board of supervisors and in any board or commission appointed by him, with the right to report on or discuss any matter before such board or commission concerning the departments or affairs in his charge. He shall have power to designate a member of the board of supervisors to act as mayor in his absence. Should he fail, neglect or refuse so to do, the supervisors shall elect one of their number to act as mayor during his absence. When a vacancy occurs in the office of mayor, it shall be filled for the unexpired portion of the term by the supervisors. Every person who has served as mayor of the city and county, so long as he remains a resident thereof, shall have a seat in the board of supervisors and may participate in its debates, but shall not be entitled to a vote or to compensation.

In case of a public emergency involving or threatening the lives, property or welfare of the citizens, or the property of the city and county, the mayor shall have the power, and it shall be his duty, to summon, organize and direct the forces of any department in the city and county in any needed service; to summon, marshal, deputize or otherwise employ other persons, or to do whatever else he may deem necessary for the purpose of meeting the emergency. The mayor may make such studies and surveys as he may deem advisable in anticipation of any such emergency. [*Amended, 1948*]

Proclamation as Charter Amendment.—An emergency proclamation fixing the salary of the employees of the newly acquired Market Street Railway and prescribing a temporary deviation from the express rule of the Charter, is not an amendment of the Charter which must follow the amending procedure prescribed in Const. art. xi, § 8. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The doctrine of ejusdem generis is not to be applied so as to restrict the meaning of the word "employ" or the phrase "to do whatever else he (the Mayor) may deem necessary for the purpose of meeting the emergency." **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The word "emergency" has reference to a method adopted as an expedient for meeting a situation which ordinarily calls for immediate action. **Fennessey v. Pacific Gas & Electric Co.** (1942) 20 Cal. (2d) 141, 124 Pac. (2d) 51; **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The emergency justifying the exercise by the Mayor of emergency powers is not restricted to conditions following a public disaster brought about by an earthquake, a fire, flood, bombing or similar calamity. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The word "employ" in the section means to hire, and therefore to fix the compensation of those hired. Although the power to fix compensation of municipal employees is vested in the Board of Supervisors, this power may be suspended during an emergency. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The salary standardization section (§ 151) may be superseded by § 25 in an emergency. **Mullins v. Henderson** (1946) 75 Cal. App (2d) 117, 170 Pac. (2d) 118.

Emergency proclamations of the Mayor fixing the compensation of employees of a newly acquired street railway were not repealed by Standardization and Annual Salary Ordinances subsequently adopted, where they did not deal with the actual emergency, but were based on normal pay and were enacted as part of the ordinary financial machinery of the city, to become effective only after the emergency had passed. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Enabling Ordinance.—The passage of an ordinance or resolution is not requisite to the exercise by the Mayor of the emergency powers vested in him. Sections 13 and 16 deal only with an acceleration of legislative procedure and of the effectiveness of ordinances in cases considered as emergency legislation. And § 179 merely provides for expeditious passage of such ordinances as may be necessary to enable the Mayor to carry out his emergency powers. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Judicial Review.—Emergency action by the Mayor is always subject to judicial review. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Questions of Fact.—The question as to whether existing conditions shown by evidence justified the action taken by the Mayor pursuant to emergency powers granted him is one of fact, and the trial court's finding on the question is conclusive on appeal if the evidence on the issue is conflicting or it is such that fair and impartial minds may draw different conclusions therefrom. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Sufficiency of Evidence.—A finding of an emergency within the section was justified where it appeared that under an existing salary standardization ordinance employees of the newly acquired Market Street Railway would receive beginners' pay, 90% of them intended to seek other employment unless they received pay on a parity with that of the municipal railway, that this would compel a shutdown of the railway for at least a year, that in view of the war conditions, labor shortage, and the multifarious industries in the area involved in the war effort, the shutdown would dangerously cripple the war effort, and an attempt to follow normal procedure prescribed in § 151 would delay the granting of parity pay for a year. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Testimony of the secretary of the Civil Service Commission that the procedure in § 145.1, relating to wartime appointments under civil service was adequate to fill any needs of the consolidated railway was insufficient to show the absence of an emergency, as against testimony of the manager of public utilities that only one-third of the applicants sent by the commission became employees, and that the railway had asked that no more applicants be sent because of the absence of training personnel. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

POWERS AND DUTIES OF ELECTIVE OFFICERS

(Continued)

City Attorney

SECTION 26. The city attorney shall be an elective officer and shall receive an annual salary of ten thousand dollars ($10,000). He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He shall appoint and at his pleasure may remove, all assistants and employees in his office. He shall devote his entire time and attention to the duties of his office. He must, at the time of his election, be an elector of the city and county, qualified to practice in all the courts of this state, and he must have been so qualified for at least ten years next preceding his election. [*Salary of city attorney now subject to Section 151.1.*]

The city attorney must represent the city and county in all actions and proceedings in which it may be legally interested, or, for or against the city and county, or, any officer of the city and county in any action or proceeding, when directed so to do by the supervisors, except where a cause of action exists in favor of the city and county against said officer. Whenever any cause of action exists in favor of the city and county, the city attorney shall commence the same when within his knowledge or when directed so to do by the supervisors. He shall give his advice or opinion in writing to any officer, board or commission of the city and county when requested. Except as otherwise provided in this charter, he shall not settle or dismiss any litigation for or against the city and county, unless, upon his written recommendation, he is ordered so to do by ordinance.

The city attorney shall prepare, or approve as to form, all ordinances before they are enacted by the supervisors. He shall approve, by endorsement in writing, the form of all official or other bonds required by this charter or by ordinance before the same are submitted to the proper commission, board or office for final approval, and no such bonds shall be finally approved without such approval as to form by the city attorney. Except as otherwise in this charter provided, he shall prepare in writing the draft or form of all contracts before the same are executed on behalf of the city and county. He shall examine and approve the title of all real property to be acquired by the city and county.

He shall keep on file in his office copies of all written communications and opinions, also all papers, briefs and transcripts used in matters wherein he appears; and books of record and registers of all actions or proceedings in his charge in which the city and county or any officer or board thereof, is a party or is interested.

Attorney for Bureau of Delinquent Revenue Collection, Tax Collector's Office

Section 26.1. The duties of the city attorney in connection with the bureau of delinquent revenue collection shall be transferred to and be performed by the attorney for said bureau who shall be subject to the civil service provisions of this charter, and any person who has performed the duties of attorney for said bureau continuously for ten years immediately prior to the effective date of this amendment and who on said date shall be performing said duties, is hereby confirmed in said position and thereafter shall hold the same pursuant to said civil service provisions of this charter and shall be entitled to all the benefits and privileges thereof. [*New section, 1948*]

Taxpayers' Suits

Section 27. In the event that a taxpayer of the city and county institute suit or other proceeding as provided by law against any officer, board or commission of the city and county in the name of said taxpayer on behalf of the city and county, if judgment be finally entered in his favor he shall be allowed his costs and also such reasonable compensation for attorney's fees as may be fixed by the court.

Assessor

Section 28. The assessor shall be an elective officer and shall receive an annual salary of eight thousand dollars ($8,000). He shall furnish an official bond in the sum of fifty thousand dollars ($50,000). He shall appoint, and at his pleasure may remove, one chief assistant or deputy and one confidential secretary. [*Salary of assessor now subject to Section 151.1.*]

District Attorney

Section 29. The district attorney shall be an elective officer and shall receive an annual salary of eight thousand dollars ($8,000). He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He must, at the time of his election, be qualified to practice in all the courts of this state and must have been so qualified for at least five years next preceding his election. He shall appoint, and at his pleasure may remove, all assistants and employees in his office. [*Salary of district attorney now subject to Section 151.1.*]

The district attorney, either in person or by his assistants, shall prosecute all criminal cases in the municipal and superior courts, draw all complaints, and issue warrants for the arrest of persons charged with crime who are to be prosecuted in such courts.

Any amount required by the district attorney from time to time from the district attorney's special fund shall be requisitioned by the district attorney, stating the general purpose for which required, whereupon the controller shall draw his warrant therefor and the claim be paid as provided for payment of other warrants by the treasurer. All such sums may be used by the district attorney solely as provided by general law and he shall file vouchers with the controller at the end of each fiscal year showing what disposition he has made of any moneys received by him from such fund and the particular purpose for which it was disbursed, provided that, if a criminal proceeding be pending or under investigation, vouchers for moneys disbursed in such proceeding or investigation, need not be filed until the trial of the criminal proceeding be ended or the investigation concluded. No portion of the fund shall be used for compensation or remuneration of full time assistants or employees.

Warrant and Bond Office

SECTION 30. There shall be a warrant and bond office. The district attorney shall appoint an assistant to have charge of the warrant and bond office to be designated warrant and bond deputy, and such additional assistants and clerks as may be provided by the budget and appropriation ordinances. No person shall be appointed warrant and bond deputy who is not at the time of his appointment qualified to practice law in all the courts of this state. The warrant and bond deputy shall keep his office open continuously night and day for the transaction of business; he shall draw and approve with his signature all complaints and warrants in criminal actions to be prosecuted in the municipal courts and any inferior court established by law in this city and county and possessing criminal jurisdiction; he shall have custody of all bail bonds and appeal bonds taken in such courts.

The warrant and bond deputy may issue bail bonds and appeal bonds and order the discharge from custody of the persons for whom such bonds are approved by a magistrate. He may fix cash bail in misdemeanor cases where arrests are made without warrants and may take cash bail in all cases arising in the municipal court and any inferior court established by law in this city and county and possessing criminal jurisdiction, and may order the discharge from custody of the persons for whom cash bail is deposited with him.

In the matter of fixing bail and ordering the release of prisoners the warrant and bond deputy shall be subject to the judges of the municipal court and the judges of any court in the city and county empowered by law to act as magistrates.

Treasurer

Section 31. The treasurer shall be an elective officer and shall receive a salary of eight thousand dollars ($8,000) per year. He shall furnish an official bond in the sum of two hundred thousand dollars ($200,000). He shall appoint, and at his pleasure may remove, one chief assistant. [*Salary of treasurer now subject to Section 151.1.*]

Sheriff

Section 32. The sheriff shall be an elective officer and shall receive a salary of eight thousand dollars ($8,000) per year. Said salary shall be exclusive of the compensation received by him from the state for the delivery of prisoners to the state prisons, and insane persons to the state asylums for the insane. He shall furnish an official bond in the sum of fifty thousand dollars ($50,000). He shall appoint, and at his pleasure may remove, an attorney, one under-sheriff, and one confidential secretary. [*Salary of sheriff now subject to Section 151.1.*]

Public Defender

Section 33. The public defender shall be an elective officer and shall receive a salary of eight thousand dollars ($8,000) per year. He shall furnish an official bond in the sum of ten thousand dollars ($10,000). He must, at the time of his election, be qualified to practice in all the courts of this state and must have been so qualified for at least five years next preceding his election. He shall appoint, and at his pleasure may remove, such assistants and employees in his office as may be provided by budget and appropriation ordinances. He shall immediately upon the request of a defendant who is financially unable to employ counsel, or upon order of the court, defend or give counsel or advice to any person charged with the commission of a crime. [*Salary of public defender now subject to Section 151.1.*]

Assistants and Employees in Elective Offices

Section 34. The elective officers of the city and county may appoint such assistants and employees as are authorized by the supervisors upon the recommendation of the mayor, in the annual budget and annual or supplemental appropriation ordinances, and may discipline and remove the same, subject to the civil service provisions of this charter except as otherwise specifically exempted by the provisions of this charter. Each assistant attorney in the offices of the city attorney, the district attorney and the public defender must, at the time of his appointment, be qualified to practice in all the courts of the state and must have been so qualified for at least two years next preceding his appointment. The salaries, wages and compensation of every kind and nature, except pensions and retirement allowances, for assistants and employees in such elective offices, shall be fixed as provided by the salary standardization provisions of this charter.

Assistants and Employees in Offices of City Attorney, District Attorney and Public Defender

Section 34.1. Notwithstanding any other provisions of this charter, occupants of all positions in the office of city attorney and the public defender, except assistant attorneys in the offices of the city attorney and the public defender, shall be subject to the civil service provisions of this charter, provided that all such occupants who are actually employed, or who may be on military leave of absence from employment, on January 16, 1945, and who have been continuously employed for one year immediately preceding such date or such military leave, shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles, and thereafter shall be governed and be subject to the civil service provisions of this charter. Upon their return to service, occupants who have been on military leave shall be appointed according to priority of service.

Notwithstanding any other provisions of this charter, occupants of all positions in the office of district attorney, except assistant attorneys, one confidential secretary and occupants of positions classified as senior investigator or investigator, shall be subject to the civil service provisions of this charter, provided that all such occupants of positions not so excepted who are actually employed on the effective date of this amendment, and who have been continuously employed for one year immediately preceding such date, shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles, and thereafter shall be governed by and shall be subject to the civil service provisions of this charter. [*New section, 1945; amended, 1949*]

DEPARTMENTS UNDER MAYOR

Bureau of Traffic Engineering and Administration: Director of Traffic: Chief of Inspectors, Police Department

SECTION 35. The police department shall consist of a police commission, a chief of police, a police force and such clerks and employees as shall be necessary and appointed pursuant to the provisions of this charter, and shall be under the management of a police commission consisting of three members, who shall be appointed by the mayor, and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock, noon, on the 15th day of January in the years 1945, 1946 and 1948, respectively. The incumbents serving as members of the commission on the effective date of this amendment shall continue to hold their respective positions, subject to the provisions of the charter, for the remainder of the terms for which they have been respectively appointed.

The police commissioners shall be the successors in office of the police commissioners holding office in the city and county at the time this amendment shall become effective, and shall have all the powers and duties thereof, except as in this charter otherwise provided. They shall have power to regulate traffic, including the location and use of traffic control devices for that purpose.

The bureau of traffic engineering and administration, which may be known as the traffic bureau, is hereby established under the jurisdiction of the police commission. The bureau shall be in charge of a traffic director, who shall have powers and duties relating to street traffic, subject to laws relating thereto and to the police commission, as follows: (a) to regulate all street traffic; (b) to promote traffic safety education and to receive, study and give prompt attention to complaints in relation to street traffic; (c) to collect, compile, analyze and interpret traffic data, including traffic accident information; to engage in traffic research and traffic planning; to review the design of the traffic facilities of the city and county and to participate in studies and investigations of street design and operation; and (d) to cooperate for the best performance of these functions, with the department of public works, the public utilities commission, the fire department, the department of city planning, the board of supervisors and other departments and agencies of the city and county and state as may be necessary.

The powers and duties of the traffic director hereinabove stated shall not modify to any extent the powers and duties of any department or office, but shall be, first for the purpose of assisting the police commission in its regulation of traffic, and, second, for the purpose of recommendation only, to other departments or offices upon matters within their jurisdiction, but affecting to any extent the regulation of traffic. [*Amended, 1937; 1943; 1949*]

It is the duty of the courts to uphold a resolution of a board of police commissioners if within reason it can be held to coincide with the Constitution, is not in conflict with other legally constituted authority, and is free from ambiguity. **Perez v. Board of Police Commissioners of Los Angeles** (1947) 78 Cal. App. (2d) 638, 178 Pac. (2d) 537.

The fact that the Board of Supervisors deemed it advisable to submit amendments to § 35 and § 36 jointly as a single proposition on the ballot in 1943, did not convert them into a single amendment, and give rise to a patent ambiguity by virtue of the different language with reference to the effective dates of the amendments. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

A charter provision declaring the right of an officer or employee to hold his office is a substantial property right (L. A. Charter, § 202) is not a limitation on a section conferring on the board of police commissioners power to supervise, etc., the department and make and enforce necessary rules and regulations. (L. A. Charter, § 78.) **Perez v. Board of Police Commissioners of Los Angeles** (1947) 78 Cal. App. (2d) 638, 178 Pac. (2d) 537.

A resolution of a police commission forbidding police officers to become members of an organization identified with a labor union or admitting to membership persons not members of the department or not employees of the city, is not subject to the objections that it is arbitrary and unreasonable, that it denies equal protection of the laws, that it is in contravention of the Fourteenth Amendment, that it is a bill of attainder, and that it violates the rights of free speech and free assembly. **Perez v. Board of Police Commissioners of Los Angeles** (1947) 78 Cal. App. (2d) 638, 178 Pac. (2d) 537.

Removal of police officers, see notes under § 155.

SECTION 35.1. The police commission shall appoint a chief of police who shall hold office at its pleasure. [*New section, 1943*]

SECTION 35.2. All positions in the police department legally authorized shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments and except as otherwise provided in this charter. [*New section, 1943*]

SECTION 35.3. The chief of police may detail from time to time members of the department for performance of duty in the bureau of inspectors who shall be known as assistant inspectors, and who may be removed from such detail by order of the chief of police. An appointment as inspector shall not be subject to competitive examination, but in case of vacancy in said rank of inspector, the appointment shall be made by the chief of police from among those assistant inspectors who have been detailed to, and who have actually served with the bureau of inspectors for at least two years prior to such appointment. Inspectors and assistant inspectors shall have the same rights as other members of the department to take competitive examinations from their respective civil service ranks. An inspector guilty of any offense or violation of the rules and regulations of the police department shall be subject to punishment as provided in section 155 of this charter; provided, however, that in addition to the punishments set forth in section 155, an inspector may be demoted to his civil service rank for any offense or violation set forth in said section and after trial and hearing before the police commission as set forth therein. The chief of police, in addition to the inspectors above provided for, shall detail any member of the department to serve as inspector of school traffic patrols who shall have the rank and pay of inspector, subject to the provisions of this section. [*New section, 1943; amended, 1948*]

SECTION 35.4. Subject to the provisions of section 20 of this charter governing the appointment and removal of non-civil service appointees, and without competitive examination, the chief of police shall have power to appoint a police surgeon; to designate a deputy chief of police, a department secretary, and a director, bureau of special services, from any rank in the department; to designate a director of traffic from among the members of the police department holding rank of lieutenant or higher; to designate a chief of inspectors from among the members of the department holding the rank of captain; to designate a director, bureau of criminal information, from among the members of the department having the rank of sergeant or higher; to designate from among the members of the department holding rank of lieutenant or higher, a captain of inspectors, who shall be administrative assistant to the chief of inspectors, a captain of traffic, and a director, bureau of personnel; and to designate a supervising captain of districts from among the members of the department holding the rank of captain. The department secretary or other suitable member of the department shall be assigned by the chief of police to serve also as secretary to the police commission without extra compensation. The chief of police shall assign a property clerk from among the members of the department, such assignment shall be made at the rank and pay of the member so assigned.

When any member of the department, detailed to any of the positions above mentioned, shall be removed from said detail or position, he shall be returned to his civil service rank and position, unless removed from the department pursuant to the provisions of section 155 of the charter.

To assist the director of traffic, an engineer shall be assigned by the chief administrative officer from the office of the city engineer to the bureau of traffic engineering and administration, and such other personnel shall be provided as may be necessary, in accordance with civil service, fiscal and other requirements of the charter, all of whom shall be paid the salaries of their respective ranks or classifications. [*New section, 1943; amended, 1949*]

SECTION 35.5. The police force of the city and county shall not exceed one police officer for each five hundred inhabitants thereof. The annual compensations for the several ranks in the department shall be as follows: chief of police, $10,980; deputy chief of police, director of traffic and chief of inspectors, $9,240; supervising captain of districts and department secretary, $7,500; captain of inspectors and captain of traffic, $6,840; director of bureau of personnel and director of bureau of criminal information, $6,480; captains and criminologist, $6,360; lieutenants and director of bureau of special services, $5,100; inspectors, $4,740; sergeants, $4,620; photographer, $4,440; police surgeon, $4,080; police officers, police patrol drivers and women protective officers, for first year of service, $3,480; for second year of service, $3,660; for third year of service, $3,900; for fourth year of service and thereafter, $4,080.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensations as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

Any member assigned to two-wheel motorcycle traffic duty shall receive $15 per month in addition to the compensation to which he would otherwise be entitled.

This section shall become effective on the 1st day of July, 1951. [*New section, 1943; amended, 1946; 1947; 1948; 1949; 1951*]

SECTION 35.5½. (a) The word "member" or "members" as used in this section shall mean the members of the several ranks in the police department set forth in section 35.5 of this charter.

(b) The basic week of service for each member shall be forty hours and the annual compensation set forth in section 35.5 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the police commission public interest or necessity requires the services of any member to serve in excess of the basic week of service during any week, the said police commission may authorize the chief of police to permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordanc with this sub-section. For service performed in excess of the basic week, members shall be compensated on the basis of straight time in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in section 35.5, or in lieu thereof equivalent time off duty with pay.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in section 151 of this charter, or the normal days off per week; provided, however, that when in the judgment of the police commission public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the said commission may authorize the chief of police to permit said member to serve during said vacation, or part thereof, or normal days off, and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of straight time in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensations provided therefor in section 35.5.

(f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part I, of the San Francisco Municipal Code, approving rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignments, prior to going on duty, the said commission may designate a period not to exceed fifteen minutes in any one day for said reporting, and the said periods of fifteen minutes need not be compensated for in money or in time off with pay.

(h) Notwithstanding the provisions of any of the foregoing subsections, the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the board of supervisors pursuant to the provisions of section 151 of the charter as additional days off with pay. Members required to perform police service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of the police commission.

(i) This section shall become effective on the first day of the month immediately following the date of ratification. [*New section, 1944; amended, 1947; 1948; 1949*]

SECTION 35.5.1. Not later than the 15th day of February of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid police officers or patrolmen employed in the respective police departments in all cities of 100,000 population or over in the State of California, based upon the latest federal decennial census.

Not later than the 1st day of April of each year, the board of supervisors shall have power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the police department whose annual compensations are set forth in section 35.5 of this charter and said rates shall be in lieu of said annual compensations and shall be effective on the 1st day of July next following.

The rates of compensation, fixed in said ordinance,

(a) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers shall not exceed the highest rate of compensation paid police officers or patrolmen in regular service in the cities included in the certified report of the civil service commission;

(b) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall include the same amount of adjustment as that used in fixing the rates of compensation for the fourth year of service for the same class;

(c) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same per cent of adjustment as that established by said ordinance for police officers in the fourth year of service; and

(d) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

Not later than the 2nd Monday of July of each year, the civil service commission shall survey and certify to the board of supervisors the rates of compensation paid police officers or patrolmen on the 1st day of July of that year in the cities hereinbefore referred to. The board of supervisors shall thereupon have the power by ordinance to revise all of the rates of compensation as in this section provided. Said revised rates shall be effective from the 1st day of July of the then current fiscal year.

If the board of supervisors revises said rates of compensation, then it shall, not later than the 25th day of July of the then current fiscal year, have the power, and it shall be its duty, subject to the fiscal provisions of the charter, but without reference or amendment to the annual budget, to amend the annual salary ordinance and the annual appropriation ordinance to include the provisions necessary for paying the rates of compensation fixed by the board of supervisors as in this section provided for the then current fiscal year.

On ratification of this section, the civil service commission shall immediately survey and certify to the board of supervisors the rates of compensation paid police officers or patrolmen on the 1st day of January, 1952, in the cities referred to hereinbefore. The board of supervisors shall thereupon have power, and it shall be its duty, by ordinance, to adjust the rates of compensation for the fiscal year 1952-1953 for all of said members of the police department based upon said certified report and as in this section provided; and, notwithstanding any other provision of this charter, it shall have the power, and it shall be its duty, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance for the fiscal year 1952-1953 to include the provisions necessary for paying said rates from July 1, 1952; provided, if additional funds are required, then provision shall be made for such payment out of such funds as the controller certifies are available for the purpose. Such funds as are made available shall first be applied to the payment of compensation for the period from the effective date of this section to June 30, 1953, and thereafter to the payment of such compensations for the period from the effective date of this section to July 1, 1952, and shall only apply to those persons who are members of the department on or after the effective date of this section.

The expression "rates of compensation," as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in section 166 and, with the addition of fifteen dollars per month now provided in section 35.5 of the charter with respect to members assigned to two-wheel motorcycle traffic duty, shall also mean "compensation earnable" as used in section 168.1.1.

For all purposes of the retirement system, the first adjustment of rates of compensation made by the board of supervisors after the effective date of this section shall be the rates of compensation for the members affected for the remainder of the fiscal year 1952-1953 following the month in which the ordinance making such adjustment becomes effective and the annual compensations set forth in section 35.5 shall be the rates of compensation for said retirement purposes for the period from the beginning of the fiscal year 1952-1953 through said month.

The term "police officers or patrolmen" as used in this section shall mean the persons employed in the police departments of said cities of 100,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department. [*New section, 1952*]

SECTION 35.6. The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place in which the business is conducted or maintained is not a proper or suitable place in which to conduct or maintain such business or calling. [*New section, 1943*]

The Chief of Police may revoke a permit only for good cause as set forth in the section. Greif v. Dullea (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

The action of the Chief of Police was not to issue a new permit to operate taxicabs, necessitating a certificate of public necessity and convenience, but a revival where, following a request for a temporary cancellation of permits for a specified number of taxicabs and an order of the Board of Police Commissioners that the permits were "cancelled," the Chief of Police declared that the permit has been and was in full force, and the evidence sustained such conclusion of the Board of Permit Appeals. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

Resolution of Police Commission authorizing Chief of Police to revoke license for refusal to return stolen property, see notes under § 24.

SECTION 35.7. In the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority, the chief of police, in the lawful exercise of his functions, shall have all the powers that are now or that may be conferred on the sheriff by the laws of this state. [*New section, 1943*]

SECTION 35.8. The supervisors shall provide in the annual budget, an amount not to exceed in any one fiscal year the sum of $10,000 to be known as the contingent fund of the chief of police. The chief of police may from time to time, disburse such sums for contingent expenses of the department as in his judgment shall be for the best interests of the city and county, and the police commission shall allow and order paid out of such contingent fund, upon orders signed by the chief of police, such amounts as may be required. [*New section, 1943*]

SECTION 35.9. At his discretion or upon the petition of any person, firm or corporation, the chief of police may appoint, and at his pleasure remove special police officers. Such officers shall be subject to all the rules and regulations of the department. [*New section, 1943*]

SECTION 35.10. The police commission may appoint patrol special officers and for cause may suspend or dismiss said patrol special police officers after a hearing on charges duly filed with the commission and after a fair and impartial trial. Each patrol special police officer shall be at the time of his appointment not less than twenty-one years of age nor more than forty years of age and must possess such physical qualifications as may be required by the commission. Age qualifications shall not apply to present patrol special police officers acting as such at the time of the effective date of this amendment nor to their reappointment. Patrol special police officers who are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by said commission or the legal heirs or representatives of said owners, may dispose of their interest in said beat or territory to a person of good moral character, approved by the policecommission and eligible for appointment as a patrol special police officer. [*New section, 1943*]

A patrol special police officer appointed pursuant to the section is an employee of San Francisco within § 172. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207; **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

SECTION 35.11. On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance. [*New section, 1943*]

SECTION 35.12. The chief of police shall have the power, by regulation, to provide for the care and restitution of property that may come into possession of any officer or employee thereof, and the sale at public auction of all such unclaimed property, as well as the disposition of such property as shall consist of weapons or articles used or that may be used in the commission of crime, or the sale or disposition of which is prohibited by law. [*New section, 1943*]

SECTION 35.13. This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1953. [*New section, 1943*]

The provision of the 1943 amendment that the amendment "shall become effective when the joint resolution approving such amendment is filed with the Secretary of State and the Board of Supervisors has appropriated funds necessary in connection therewith, but not later than July 1, 1943," had the effect of deferring the effective date until the Board of Supervisors had appropriated the funds. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

DEPARTMENTS UNDER MAYOR
(Continued)

Fire Department

SECTION 36. The fire department shall be under the management of a fire commission, consisting of three members, who shall be appointed by the mayor and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock noon on the 15th day of January in the years 1948, 1949 and 1950, respectively.

The fire commission shall appoint a chief of department, a secretary and a department physician who shall hold office at its pleasure.

The fire commissioners shall be successors in office of the fire commissioners holding office in the city and county at the time this charter shall go into effect, and shall have all the powers and duties thereof, except as in this charter otherwise provided. The commissioners shall have power, upon recommendation of the chief of department, to send fire boats, apparatus and men outside the City and County of San Francisco for fire-fighting purposes.

Positions of officers and employees of the fire department legally authorized shall continue, and the incumbents therein legally appointed thereto shall continue as the officers and employees of the department under the conditions governing their respective appointments, and except as in this charter otherwise provided.

The annual compensations for the several ranks in the fire department shall be as follows: chief of department, $10,980; deputy chief of department, $9,240; first assistant and second assistant chiefs of department, $7,500; secretary to chief of department, $7,280; battalion chiefs, $6,480; captains, $5,100; lieutenants, $4,740; engineers, $4,440; chief's operators, $4,440; drivers, stokers, tillermen, truckmen and hosemen, for first year of service, $3,480; for second year of service, $3,660; for third year of service, $3,900; for fourth year of service and thereafter, $4,080; pilots of fire boats and marine engineers of fire boats, $5,100; firemen of fire boats, $4,140.

Except as to members of marine crews of fire boats, each period of twenty-four hours shall be divided into two tours of duty, to wit: from eight o'clock A.M. to six o'clock P.M., and from six o'clock P.M. to eight o'clock A.M. The uniformed force of the fire department shall be divided into two platoons, the officers and members assigned to which shall alternate on the tours of duty at intervals of not more than one week. No officer or member, including pilots, marine engineers and firemen of fire boats, shall be required to work more than one hundred and twenty (120) hours in any fifteen-day period, nor shall any officer or member be required to work more than fourteen consecutive hours except in case of a conflagration requiring the services of more than one-half of the force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 120 hours in any fifteen-day period. Each officer and each member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the fire commission, it is in the public interest that any member of the uniformed force of said fire department should work on his day off and said member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provided for said member as set forth in this section of the charter, said member shall be entitled to be compensated at his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating to the retirement system, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

On the recommendation of the chief of department, the commission may reward any member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

Members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedule of compensations adopted by the board of supervisors, pursuant to the provisions of section 151 of the charter, as additional days off with pay. Members required to perform service in said departments on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of the fire commission.

The chief of department or, in his absence, the deputy chief or any assistant chief of department or, in their absence any battalion chief in charge, may, during a conflagration, cause to be cut down or otherwise removed any buildings or structures for the purpose of checking the progress of such conflagration.

In determining years of service necessary for a driver, stoker, tillerman, truckman and hoseman to receive the annual compensation sum of $3,660, $3,900, and $4,080, respectively, as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any officer or member of the fire department on military leave of absence, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

This section shall become effective on the 1st day of July, 1951. [*Amended, 1940; 1943; 1946; 1947; 1948; 1951*]

The fact that the Board of Supervisors deemed it advisable to submit amendments to § 35 and § 36 jointly as a single proposition on the ballot in 1943, did not convert them into a single amendment and give rise to a patent ambiguity by virtue of the different language with reference to the effective dates of the amendments. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

The 1943 amendment providing that it should become effective when the joint legislative resolution was filed, and the increased salaries should be payable only when the proper appropriation had been made, was not subject to the construction that the increase should start on the filing of the joint resolution with the Secretary of State, but that the actual payment should be delayed until the necessary appropriation was made. The pay raise did not commence until the Board of Supervisors made the necessary appropriation. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

Under the 1943 amendment providing that it should become effective when the joint legislative resolution was filed, and the increased salaries should be payable only when the proper appropriation had been made, the pay raise did not commence until the Board of Supervisors made the necessary appropriation. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

SECTION 36.1. (a) The tours of duty provided for in section 36 of this charter and the length thereof, and the platoon system provided for in said section for the officers and members of the uniformed ranks shall continue as now set forth in said section.

(b) Each member of the uniformed force shall be entitled to at least one (1) day off in each seven (7) and such additional days or time off as may be approved by the fire commission.

(c) When, in the judgment of the fire commission, it is in the public interest that any member of the uniformed force of said fire department should work on his day off and said member consents to so work, he may at the direction of the chief engineer of the department work on said day off, and in addition to the regular compensation provided for said member as set forth in section 36 of this charter, said member shall be entitled to be compensated at his regular rate of pay as provided for in section 36 for said extra time served.

(d) Each member of the uniformed force of the fire department shall be entitled to a vacation period of two (2) weeks as provided for in section 151 of this charter, provided, however, that if in the judgment of the fire commission it is in the public interest that any member of the said department should continue his service to the department during his vacation period, and said member consents to continue his said service, the chief engineer of the department may permit said member to continue such service, and said member shall in addition to his annual vacation pay, be paid additional compensation for said vacation period, which said compensation shall be equal to the vacation pay allowed to said member of the department.

(e) Salary warrants for extra time served by officers and members of the uniformed force of the department shall be payable from the regular salary appropriation of said uniformed force for the prevailing fiscal year, and at no time shall extra compensation be authorized or paid in amounts exceeding the available unencumbered balance in said appropriation.

(f) Nothing in this section contained shall in any way interfere with the sick or disability leave provided for in Section 301, Part I, of the San Francisco Municipal Code.

(g) This section shall be effective on the first day of July, if the same is ratified prior thereto by the Legislature of the State of California, and if not so ratified shall be effective within fifteen (15) days after the date of its ratification.

(h) The provisions of this section shall continue in force for a period of six (6) months after the termination of the present war between the United States and the axis powers. [*New section, 1944*]

SECTION 36.1½. Subject to the provisions of section 20 of the charter governing the appointment and removal of non-civil service officers, assistants and employees, and without competitive examination, the chief of department shall have the power to appoint, from among the members of the department having the rank of first or second assistant chief of department, a deputy chief of department and, from among the members of the department having the rank of battalion chief, a secretary to the chief of department.

This section shall become effective on the first day of July, 1951. [*New section, 1948; amended, 1951*]

SECTION 36.2. Not later than the 15th day of February of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid firemen employed in the respective fire departments in all cities of 100,000 population or over in the State of California, based upon the latest federal decennial census.

Not later than the 1st day of April of each year, the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in sections 36 and 38.1 of this charter, and said rates shall be in lieu of said annual compensations and shall be effective on the 1st day of July next following.

The rates of compensation, fixed in said ordinance,

(a) for the fourth year of service and thereafter for firemen shall not exceed the highest rate of compensation paid firemen in regular service in the cities included in the certified report of the civil service commission;

(b) for the first, second and third year of service for firemen shall include the same amount of adjustment as that used in fixing the rates of compensation for the fourth year of service for the same class;

(c) for said members of the fire department other than firemen shall include the same per cent of adjustment as that established by said ordinance for firemen in the fourth year of service; and

(d) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

Not later than the 2nd Monday of July each year, the civil service commission shall survey and certify to the board of supervisors the rates of compensation paid firemen on the 1st day of July of that year in the cities hereinbefore referred to. The board of supervisors shall thereupon have the power by ordinance to revise all of the rates of compensation as in this section provided. Said revised rates shall be effective from the 1st day of July of the then current fiscal year.

If the board of supervisors revises said rates of compensation, then it shall, not later than the 25th day of July of the then current fiscal year, have the power, and it shall be its duty, subject to the fiscal provisions of the charter, but without reference or amendment to the annual budget, to amend the annual salary ordinance and the annual appropriation ordinance to include the provisions necessary for paying the rates of compensation fixed by the board of supervisors as in this section provided for the then current fiscal year.

On ratification of this section, the civil service commission shall immediately survey and certify to the board of supervisors the rates of compensation paid firemen on the 1st day of January, 1952, in the cities referred to hereinbefore. The board of supervisors shall thereupon have power, and it shall be its duty, by ordinance, to adjust the rates of compensation for the fiscal year 1952-1953 for all of said members of the fire department based upon said certified report and as in this section provided; and, notwithstanding any other provision of this charter, it shall have the power, and it shall be its duty, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance for the fiscal year 1952-1953 to include the provisions necessary for paying said rates from July 1, 1952; provided, if additional funds are required, then provision shall be made for such payment out of such funds as the controller certifies are available for the purpose. Such funds as are made available shall first be applied to the payment of compensation for the period from the effective date of this section to June 30, 1953, and thereafter to the payment of such compensations for the period from the effective date of this section to July 1, 1952, and shall only apply to those persons who are members of the department on or after the effective date of this section.

The expression "rates of compensation," as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation," as used in this section shall mean "salary attached to the rank" as used in section 169 and "compensation earnable" as used in section 171.1.1.

For all purposes of the retirement system, the first adjustment of rates of compensation made by the board of supervisors after the effective date of this section shall be the rates of compensation for the members affected for the remainder of the fiscal year 1952-1953 following the month in which the ordinance making such adjustment becomes effective, and the annual compensations set forth in section 36 shall be the rates of compensation for said retirement purposes for the period from the beginning of the fiscal year 1952-1953 through said month.

The term "firemen" as used in this section shall mean the persons employed, in the fire departments of said cities of 100,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission. [*New section, 1944; repealed, 1946; new section, 1952*]

Fire Marshal

SECTION 37. The chief of the fire department, with the approval of the fire commission, may appoint a fire marshal and assistants on the recommendation of the Underwriters Fire Patrol of San Francisco, to serve without compensation from the city and county. The board of supervisors may empower the fire marshal to sell property saved or salvaged from any fire and for which no owner can be found. The fire marshal may call upon police officers to assist in the protection or salvaging of property and shall have such other powers and duties as by ordinance may be prescribed relative to the protection of property at fires and the storage of property salvaged therefrom. He shall have such duties appertaining to the enforcement of laws relative to the storage, sale and use of oils, combustible materials and explosives as the fire commission by rule, or the supervisors by ordinance, may prescribe.

Fire Prevention

SECTION 38. The bureau of fire prevention and public safety under the jurisdiction of the fire commission is hereby established. The commission shall detail to said bureau from the uniformed force of the department an officer to have charge of said bureau and such other personnel as it may deem necessary, who shall be paid the salary or salaries for their respective ranks in the fire department. The bureau shall inspect all structures and premises to determine whether or not compliance is being had with statutes and ordinances relative to fire prevention, fire protection and fire-spread control, and the protection of persons and property from fire. It shall enforce said statutes and ordinances and shall report violations to departments having jurisdiction.

The bureau shall examine the application, plans and specifications for the erection, and for alterations or repairs estimated to exceed $1,000 in cost, of any structure or premises subject to the statutes and ordinances referred to in this section. The bureau shall by written report, filed with the superintendent of building inspection, approve such plans and specifications, or report to said superintendent the particulars wherein non-compliance exists, and upon modification of the application, plans and specifications to comply therewith, the bureau shall inform said superintendent of its approval. No permit for alteration or repair exceeding $1,000 in cost, or for erection, shall be issued unless said approval is given.

The fire commission, relative to permits subject to issuance or revocation by the chief of department, shall, by regulation, prescribe such duties of the bureau of fire prevention as it shall deem appropriate. Any structure or premises wherein there exists any violation of statutes and ordinances referred to in this section, or which is maintained or used in such manner as to endanger persons or property by hazard of fire, explosion or panic and any structure or premises hereafter constructed, altered or repaired in violation of said statutes and ordinances is hereby declared to be a public nuisance, and it shall be the duty of the bureau to prosecute abatement proceedings. [*Amended, 1954*]

Fire Investigation

Section 38.01. Notwithstanding the provisions of section 38 of the charter, the following ranks are hereby established within the fire department as of July 1, 1953; captain, bureau of fire prevention and public safety; lieutenant, bureau of fire prevention and public safety; lieutenant, bureau of fire investigation; inspector, bureau of fire prevention and public safety; and investigator, bureau of fire investigation. Any member of the fire department now assigned as captain, bureau of fire prevention and public safety, lieutenant, bureau of fire prevention and public safety, lieutenant bureau of fire investigation, inspector, bureau of fire prevention and public safety, or investigator, bureau of fire investigation, shall, if he has been performing such duties on July 1, 1952 and continuously thereafter for the period of one year, or for a period of one year from July 1, 1951 to July 1, 1952 inclusively, be declared permanently appointed to such rank as if appointed thereto after examination and certification from a list of eligibles under the civil service provisions of this charter, and thereafter shall hold such position under the civil service provisions of this charter; provided that as to any member assigned to either of said bureaus who is or was on military leave during any of the periods of time above stated such military leave shall be considered as service in the assignment from which leave was granted.

Vacancies existing in the several ranks established by this section shall be subject to competitive examination, and the provisions of section 146 of the charter relating to the fire department shall apply except as otherwise provided herein. Personnel of the fire department eligible to participate in an examination for the rank of captain, bureau of fire prevention and public safety shall come from the rank of captain. Personnel of the fire department eligible to participate in examinations for the rank of lieutenant, bureau of fire prevention and public safety and lieutenant, bureau of fire investigation shall come from the rank of lieutenant. Personnel of the fire department eligible to participate in examinations for the rank of inspector, bureau of fire prevention and public safety and investigator, bureau of fire investigation shall come from the ranks of hoseman, truckman and chief's operator. Nothing in this section shall prohibit captain, bureau of fire prevention and public safety nor captain from participating in an examination for the rank of battalion chief. Nothing in this section shall prohibit lieutenant, bureau of fire prevention and public safety nor lieutenant, bureau of fire investigation nor lieutenant from participating in an examination for the rank of captain. The ranks of inspector, bureau of fire prevention and public safety and investigator, bureau of fire investigation shall be considered equal with the ranks of chief's operator, hoseman and truckman for promotional examination to the rank of lieutenant.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety and lieutenant, bureau of fire prevention and public safety and lieutenant, bureau of fire investigation shall be $20.00 per month in addition to the amounts provided for the ranks of captain and lieutenant as provided for in section 36.2 of the charter. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety and investigator, bureau of fire prevention and public safety and investigator, bureau of fire investigation shall be the same as for the rank of chief's operator as provided in section 36.2 of the charter. [*New section, 1953*]

Salvage Corps

SECTION 38.1. There is hereby created in the San Francisco fire department a division to be known as the salvage corps.

The duties of said salvage corps shall be the protection of property, during the period of any fire and immediately after said fire, from damage by smoke, water or flames. Said salvage corps shall be under the jurisdiction of the fire commission of the City and County of San Francisco. The personnel of said salvage corps shall not be transferred to any other branch or division of the fire department but shall at all times be subject to the orders of the chief engineer of the department in so far as actual service is concerned. The personnel of said salvage corps may be increased in accordance with the fiscal and budgetary procedure provided for in the charter, but members of any other branch or division of said fire department shall not be transferred to said salvage corps except after examination and certification as to eligibility by the civil service commission.

All persons employed in the uniformed force of the corporation known as the Underwriters' Fire Patrol of San Francisco, on the effective date of this amendment and who have been so employed for a period of six months next before the effective date of this amendment shall become members of said salvage corps and shall be deemed appointed as such in accordance with the civil service provisions of the charter and shall thereafter be entitled to all of the benefits thereof. Any person heretofore employed in the uniformed force of said Underwriters' Fire Patrol of San Francisco who has been granted a leave of absence for military purposes and who has been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six months next before the granting of said leave of absence, shall, on the expiration of his said leave, become a member of said salvage corps and also shall be deemed appointed thereto pursuant to the civil service provisions of the charter and entitled to all of the benefits thereof.

All persons who, on the effective date of this amendment, shall be serving as officers in said uniformed force of said Underwriters' Fire Patrol of San Francisco and who have been so serving for a period of six months prior thereto, shall continue to occupy their respective official positions, with the exception that such persons as may be serving in the position of sergeant shall become lieutenants in said salvage corps and the position of sergeant shall no longer exist.

The officers and members of said salvage corps shall receive respectively the salaries provided for captains, lieutenants and hosemen provided by section 36 of the charter and for the purpose of determining the salaries of said hosemen, service rendered in the uniformed force of said Underwriters' Fire Patrol of San Francisco shall be deemed as service rendered in the service of the City and County of San Francisco.

Upon the actual taking over of the employees of said Underwriters' Fire Patrol of San Francisco, the members thereof coming into the employment of the City and County of San Francisco shall become members of the San Francisco city and county retirement system and shall be entitled to the benefits thereof and subject to the obligations thereof pursuant to the provisions of section 165 of the charter.

All employees hereafter added to said salvage corps, including officers appointed thereto, other than those who may have been serving in the uniformed forces of said Underwriters' Fire Patrol of San Francisco and continue in the service of the City and County of San Francisco pursuant to the provisions of this section, shall be appointed and hold their positions subject to the civil service provisions of the charter.

The tours of duty of the members of said salvage corps shall be the same as the tours of duty for other members of the uniformed force of the fire department as the same are set forth in section 36 of the charter.

The physical and age requirements for future applicants and members of the salvage corps shall be the same as those applicable to applicants for and regular members of equal rank in the San Francisco fire department.

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. [*New section, 1943*]

Salvage Corps—Military Leave Provisions

SECTION 38.2. Notwithstanding any other provisions of this charter, any person employed on July 1, 1943, in the uniformed force of said Underwriters' Fire Patrol of San Francisco who was absent from his duties therein on account of miiltary service and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six (6) months next before July 1, 1943, is deemed a member of said salvage corps on July 1, 1943, on military leave from his position therein and is deemed appointed thereto on July 1, 1943, pursuant to the civil service provisions of the charter and entitled from said date to all of the benefits of such employment. [*New section, 1947*]

Curtailment or Discontinuance of Fireboat Operation

SECTION 38.3. In the event that the services of any pilot, marine engineer or marine fireman holding permanent civil service status as such hereinafter referred to as the said member, are no longer required in connection with fireboat operation due to curtailment of such operation by the City and County of San Francisco or due to the conversion from steam fireboats to motorized fireboats the said member on the basis of seniority in rank may be reassigned to duties of a position of some other rank in the fire department in which a vacancy in a permanent position exists and not carrying a higher compensation than the compensation of the rank previously held by said member, as the chief of department, with the approval of the fire commission shall determine are within the said member's ability to perform, below the rank of lieutenant, provided however, said member shall not be eligible for promotional examination in the fire department. Upon such reassignment the said member shall be declared to be permanently appointed to such new rank as if appointed thereto after examination and certification from a list of eligibles under the civil service provisions of this charter, and he shall have seniority therein from date of such reassignment and he shall receive the same rate of pay as would be applicable to any other member of such new rank having the same number of years of service in the department under the provisions of section 36.2 of the charter. If no vacancy in a permanent position exists to which immediate reassignment may be made as indicated above, then such member shall be laid off from his position subject to reassignment as indicated above when such a vacancy does occur.

If at any time after such reassignment the said member's original position, or a similar position becomes available on fireboats under jurisdiction of the San Francisco Fire Department the said member shall be assigned to such position in accordance with his seniority in rank in the department, preference in such assignment being given to the said member having the greatest seniority. Upon such assignment the said member shall be declared to be reappointed to the rank he held at the time he was transferred from such fireboat service and shall be restored to all the civil service rights and privileges appurtenant thereto, including such additional rights and privileges as may have accrued by reason of added seniority.

Nothing in this section shall affect the said member's pension and retirement rights and privileges under sections 168.3 and 171.

The chief of department, the board of fire commissioners, the civil service commission, the controller and the board of supervisors shall perform all acts necessary to carry out the provisions of this section. [*New section, 1954*]

DEPARTMENTS UNDER MAYOR

(Continued)

Board of Permit Appeals

SECTION 39. The mayor shall appoint five qualified electors, other than city and county officials or employees, for terms of four years, to constitute a board of permit appeals. The compensation for each member shall be fifteen dollars ($15) per meeting of the board actually attended by such members provided that the total amount paid all members of the board shall not exceed five thousand dollars ($5,000) per year. The persons first appointed shall determine their terms by lot so that one such term shall expire at twelve o'clock noon on the 15th day of January in each of the years 1933, 1934 and 1935, and the remaining two terms at twelve o'clock noon on the 15th day of January, 1936, and upon these and successive expirations the mayor shall appoint their successors for four-year terms.

Any applicant for a permit or license who is denied such permit or license by the department authorized to issue same, or whose license or permit is ordered revoked by any department, or any person who deems that his interests or property or that the general public interest will be adversely affected as the result of operations authorized by or under any permit or license granted or issued by any department, may appeal to the board of permit appeals. Such board shall hear the applicant, the permit-holder, or other interested parties, as well as the head or representative of the department issuing or refusing to issue such license or permit, or ordering the revocation of same. After such hearing and such further investigation as the board may deem necessary, it may concur in the action of the department authorized to issue such license or permit, or, by the vote of four members, may overrule the action of such department and order that the permit or license be granted, restored or refused.

The Board of Permit Appeals is a local board, and comes within the classification of a board with discretionary powers. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

The jurisdiction of the Board of Permit Appeals is very broad. It may hear appeals on the record, it may try the cause de novo or it may make its own investigation and its own independent order based thereon. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

Judicial Notice.—The Board of Permit Appeals may take notice of permit and license ordinances as part of its function to review the acts of departments authorized to issue, grant or deny licenses or permits. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

Discretion of Board.—In its appellate jurisdiction the Board of Permit Appeals is an administrative tribunal empowered to exercise full discretion in passing on the matter as submitted for decision. The authority of the board is not confined to a determination of whether there has been a compliance with ordinances regulating permit procedure. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4; **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

Determination.—The Board of Permit Appeals is not required to set forth the reason for its action at the conclusion of a hearing or a rehearing. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

Rehearing.—The granting of a rehearing by the Board of Permit Appeals is not an abuse of discretion justifying the issuance of a writ of mandate on the ground that it amounts to a reopening of a matter once closed. Rather this is the exercise of a continuing jurisdiction incident to the final determination of the case in pursuance of § 16 of the Municipal Code, part III, art. 1. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

An application for rehearing before the Board of Permit Appeals is not to be construed with the strictness required in case of motions for new trial in a court of law. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

A mere formal deficiency in a timely filed application for rehearing, such as a failure to show why alleged newly discovered evidence was not produced at the original hearing, will not operate to deprive the Board of Permit Appeals of its lawful power to rehear the proceeding on its merits. The sufficiency of the application considered in the light of the board's appellate jurisdiction simply constitutes a matter within the jurisdiction of the board calling for the exercise of discretion. **Lindell Co. v. Board of Permit Appeals** (1943) 23 Cal. (2d) 303, 144 Pac. (2d) 4.

Supplementary Proceedings.—In supplementary proceedings the trial court did not abuse its discretion in refusing to appoint a receiver to sell taxicab licenses of the judgment debtor in view of various considerations, including the necessity of obtaining the approval of the sale by the Police Commission, the possibility of an appeal to the Board of Permit Appeals in case the application for transfer should be denied or of possible application to a court for relief. **Elson v. Nyhan** (1941) 45 Cal. App. (2d) 1, 113 Pac. (2d) 474.

Cited in **Willer v. Quinn** (1935) 4 Cal. App. (2d) 663, 41 Pac. (2d) 572, see § 24.

DEPARTMENTS UNDER MAYOR

(Continued)

Recreation and Park Department

SECTION 40. The recreation department and the park department are hereby consolidated into one department, to be known as the recreation and park department, which shall be under the management of a recreation and park commission. The recreation and park department and the recreation and park commission shall be, respectively, the successors in all regards of the recreation department and the park department and of the recreation commission and the park commission, which departments, commissions and offices of commissioner thereof shall cease to exist.

A recreation and park commission is hereby created, the members of which shall serve as commissioners thereof without compensation. Said commission shall consist of seven members, who shall be appointed by the mayor for a term of four years; provided that the respective terms of office of those first appointed shall be as follows: two for two years, two for three years, and three for four years from the effective date of this section. Vacancies occurring in the offices of appointive members, either during or at expiration of term, shall be filled by the mayor. Not less than two members of said commission shall be women.

This section and sections 41 and 42 as herein amended, shall take effect on the filing with the secretary of state of the legislative resolution of approval thereof, except that the existing commissions and departments shall continue for all purposes pertaining to the current fiscal year until the first day of the fiscal year next succeeding the filing of such resolution and the recreation and park commission shall have power prior to such date only in relation to matters pertaining to its own organization and to such next succeeding fiscal year and thereafter. [*Amended, 1941; 1949*]

Organization of Department

SECTION 41. The recreation and park commission shall appoint a general manager, who shall hold office at the pleasure of the commission. The commission shall also appoint a secretary, subject to the civil service provisions of this charter; provided that the incumbent occupying the position of secretary, recreation commission, on and for more than one year immediately prior to the effective date of this section, shall be deemed appointed and shall become the secretary of the recreation and park commission, and thereafter shall be subject to and be governed by the civil service provisions of this charter.

The general manager shall be the chief executive officer of the department. Subject to the approval of the commission, he shall have power to appoint and to remove a superintendent of recreation, a superintendent of parks, a director of the zoo, and an executive secretary to the general manager, all of whom shall be exempt from the civil service provisions of this charter, and shall hold office subject to such power of removal on approval of the commission; provided, however, that the incumbents occupying the positions of superintendent of recreation, superintendent of parks, and director of the zoo on the effective date of sections 40, 41 and 42, as amended, shall be deemed appointed to their respective positions subject to the provisions of this section; provided, further, that the incumbent occupying the position of secretary, park commission on the effective date of this section shall be deemed appointed and shall become the executive secretary to the general manager, subject to the provisions of this section.

The civil service rights of persons employed under the civil service provisions of this charter in either the recreation or park departments shall continue in the recreation and park department. Seniority of any such employees who acquired civil service status in either the recreation department under the provisions of section 42 of the charter as effective January 8, 1932, or in the park department under the provisions of section 40 of the charter as amended and effective January 21, 1941, shall be determined for all purposes in each instance by the date of commencement of full-time continuous service with either the recreation or park departments. If records of the date of commencement of full-time continuous service do not exist or are inadequate in any instance from which to determine such date with certainty, other proof may be received. [*Amended, 1949*]

In the adoption of this section the City and County acted under the constitutional grant of power in Const. art. xi, § § 8, 8a, 8½, and in thus dealing with its own lands it was not restricted by any constitutional provision. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (2d) 639.

It was within the charter powers of the Board of Park Commissioners to execute a fifty-year lease of the subsurface space beneath Union Square for the purpose of erecting and constructing thereon a public automobile garage and parking station, even though this entailed a temporary suspension of surface use during construction and a permanent use of a small portion of the surface for entrances and exits. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (2d) 639.

Although the Charter grants to the Park Commission the exclusive control and management of parks, including the exclusive right to erect and to superintend the erection of buildings, the authority may not be exercised in such manner as to create a public nuisance, and the courts will interfere to prevent the commission from building an overground comfort station in a park in such manner as to constitute a nuisance. **Hassel v. San Francisco** (1938) 11 Cal. (2d) 168, 78 Pac. (2d) 1021.

Sale, Abandonment or Discontinuance of Use of Land Held for Park Purposes

Section 41.1. Notwithstanding any other provisions of this charter, whenever lands which are or shall be used or intended for use for parks or squares are no longer needed for park or recreational purposes, such lands may be sold or otherwise disposed of, or their use for park purposes may be abandoned or discontinued; provided that nothing herein shall be construed to authorize the discontinuance or abandonment of the use of such lands, or any change in the use thereof which will cause the reversion of such lands to private ownership, or cause the forfeiture of the ownership thereof in fee by the City and County of San Francisco, or as authorizing the discontinuance of the use of park lands acquired in any proceeding wherein a local assessment based on benefits was or shall be levied to provide funds for such acquisition; and provided further that the general laws of the State of California authorizing municipal corporations to abandon or to discontinue the use of land for park purposes, authorizing the sale or other disposition of such lands, and providing procedures therefor and for matters relating thereto, shall be applicable to the City and County of San Francisco and to all lands held or used by it for park purposes and shall govern and control exclusively in respect thereto. [*New section, 1949*]

Control and Use of Property—Tax Levy

Section 42. The recreation and park commission shall have the complete and exclusive control, management and direction of the parks, playgrounds, recreation centers and all other recreation facilities, squares, avenues and grounds which are in the charge of either of said commissions on the effective date hereof, or are thereafter placed in the charge of this commission, including exclusive power to erect and to superintend the erection of buildings and structures thereon, and to construct new parks, squares, playgrounds and recreation centers, except as in this charter otherwise provided.

It shall be the policy of the commission to promote and foster a program providing for organized public recreation of the highest standard.

The commission, through the general manager, shall utilize the property under its control and organize the personnel under its direction, to the end that all functions of the department be performed with the greatest possible efficiency.

The San Francisco Unified School District shall supervise and direct recreational activities in facilities under its jurisdiction, and the commission and the school district shall have the power to supervise and direct other adjacent recreational and park facilities either jointly or severally by agreement.

The commission shall not lease any part of the lands under its control nor permit the building or maintenance or use of any structure on any park, square, avenue or ground, except for recreation purposes, and each letting or permit shall be subject to approval of the board of supervisors by ordinance, but the commission may lease to the highest responsible bidder for a term of not to exceed fifty years and upon such other terms and conditions as it may determine, subsurface space under any public park or square and the right and privilege to conduct and operate therein a public automobile parking station, provided that the said construction, when completed, and the operation will not be, in any material respect or degree, detrimental to the original purpose for which said park or square was dedicated or in contravention of the conditions of any grant under which said park or square might have been received. The revenues derived from any such lease shall be credited to the recreation and park department fund.

The recreation and park commission shall have the power to lease or rent any stadium or recreation field under its jurisdiction for athletic contests, exhibitions and other special events and may permit the lessee to charge an admission fee.

The amount of money to be provided by tax levy for recreation and park purposes shall not be less than the total of the amounts now or hereafter provided for parks and squares and for playgrounds under the provisions of section 78 of this charter. [*Amended, 1943; 1945; 1949*]

Although the Charter grants to the Park Commission the exclusive control and management of parks, including the exclusive right to erect and to superintend the erection of buildings, the authority may not be exercised in such manner as to create a public nuisance, and the courts will interfere to prevent the commission from building an overground comfort station in a park in such manner as to constitute a nuisance. **Hassel v. San Francisco** (1938) 11 Cal. (2d) 168, 78 Pac. (2d) 1021.

It was within the charter powers of the Board of Park Commissioners to execute a fifty-year lease of the subsurface space beneath Union Square for the purpose of erecting and constructing thereon a public automobile garage and parking station even though this entailed a temporary suspension of surface use during construction and a permanent use of a small portion of the surface for entrances and exits. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (2d) 639.

In the adoption of former Sec. 41 (prior to amendment of 1949) the City and County acted under the constitutional grant of power in Const. art. xi, secs. 8, 8a, 8½, and in thus dealing with its own lands it was not restricted by any constitutional provision. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (2d) 639.

Where a city acquires lands which were granted exclusively for park purposes, any use which does not directly contribute to the use and enjoyment of the property described in the deed for park purposes is a violation of the restriction, and a judgment permitting the use of such lands for housing and storing vehicles and equipment used exclusively for the care and maintenance of the city parks generally goes beyond the scope of the grant. **Roberts v. City of Palos Verdes Estates** (1949) 93 ACA 686, 209 Pac. (2d) 7.

DEPARTMENTS UNDER MAYOR
(Continued)

Library Department

Section 43. The library department shall be under the management of a library commission consisting of eleven members who shall be appointed by the mayor and shall serve without compensation.

The eleven library trustees constituting the board of library trustees in office at the time this charter shall go into effect shall, by lot, classify their respective terms of office so that three of such terms shall begin at twelve o'clock noon on the 15th day of January, 1932, 1933, and 1934, respectively, and two such terms shall begin at twelve o'clock noon on the 15th day of January, 1935. The term of each commissioner shall be four years, at the expiration of which the mayor shall appoint his successor.

The library commission shall appoint a librarian and a secretary who shall hold office at its pleasure. The librarian shall be the chief executive of the department and shall be the appointing officer for the department as provided in section 20 of the charter.

Commencing on the 1st day of January, 1942, all positions in the library department except those of librarian and secretary of the library commission and part time services carrying compensation of less than $80 per month including valuation of maintenance or other allowances shall be subject to the civil service provisions of this charter, and upon said date, any incumbent of such position in the library department, hereby made subject to civil service, who shall have held such position continuously for one year prior thereto, shall be deemed appointed to such position under the civil service provisions of this charter.

The library commission shall be the successors in office of the board of library trustees holding office at the time this charter shall go into effect and shall have all the powers and duties thereof, except as in this charter otherwise provided. [*Amended, 1941*]

War Memorial

Section 44. The board of trustees of the San Francisco war memorial shall, under ordinance, have charge of the construction, administration and operation of said war memorial and of the grounds set aside therefor. The board shall consist of eleven members appointed by the mayor, subject to confirmation by the board of supervisors. The terms of office of the incumbent trustees shall expire as heretofore classified by lot, as follows: The terms of four of said trustees shall expire on the 2nd day of January, 1933; three on the 2nd day of January, 1935; and four on the 2nd day of January, 1937. Thereafter appointments to said board shall be for the term of six years. Vacancies on said board shall be filled by the mayor, subject to confirmation by the board of supervisors, for the unexpired term becoming vacant. In making appointments to said board, the mayor shall give due consideration to veterans of all wars in which the United States may have engaged, and to such other classes of persons who may have a special interest in the purpose for which said war memorial is to be constructed and maintained. The members of said board shall serve without compensation.

The board shall have the power to appoint a secretary and a managing director, each of whom shall hold office at its pleasure, and such other employees as may be provided by the annual budget and appropriation ordinance.

The board of supervisors shall annually appropriate to the war memorial board an amount sufficient to defray the cost of maintaining, operating and caring for said memorial.

Art Commission

SECTION 45. An art commission for the city and county is hereby created, consisting of ten members appointed by the mayor and six ex officio members. The ex officio members shall be the mayor and the chairmen of the following boards and commissions: Public library, park, city planning, de Young Memorial Museum and California Palace of the Legion of Honor. The mayor shall appoint three lay members, and an artist-painter, an artist-sculptor, a musician, a litterateur, two architects and one landscape architect. In appointing the seven professional members, the mayor shall solicit nominations from architectural, art, musical, literary and other cultural organizations of the city.

The first appointments by the mayor shall be made not later than the 15th day of January, 1932, and shall be for the following terms, which shall expire at twelve o'clock noon on the 15th day of January in the respective years: One landscape architect and one lay member, one-year terms; one artist-sculptor and one architect, two-year terms: one musician and one lay member, three-year terms; one litterateur and one architect, four-year terms; and one artist-painter and one lay member, five-year terms. Upon the expiration of the terms, all successive appointments shall be for a period of five years.

The members of the commission shall serve without compensation. No member of this commission shall receive from the city and county, or from any trust, donation, or legacy, any compensation for any service as an artist for the benefit of the city and county.

Powers and Duties

SECTION 46. No work of art shall be contracted for or placed or erected on property of the city and county or become the property of the city and county by purchase, gift or otherwise, except for any museum or art gallery, unless such work of art, or a design or model of the same as required by the commission, together with the proposed location of such work of art, shall first have been submitted to and approved by the commission. The term "work of art" as used in this charter shall comprise paintings, mural decorations, stained glass, statues, bas reliefs or other sculptures; monuments, fountains, arches or other structures of a permanent or temporary character intended for ornament or commemoration. No existing work of art in the possession of the city and county shall be removed, relocated or altered in any way without the approval of the commission, except as otherwise provided herein. The commission shall have similar powers with respect to the design of buildings, bridges, viaducts, elevated ways, approaches, gates, fences, lamps or other structures erected or to be erected upon land belonging to the city and county, and concerning arches, bridges, structures and approaches which are the property of any corporation or private individual and which shall extend over or upon any street, avenue, highway, park or public place belonging to the city and county. Said commission shall so act and its approval shall be required for every such structure which shall hereafter be erected or contracted for, and may advise in respect to lines, grades and platting of public ways and grounds.

Nothing herein contained shall be construed to limit or abridge the legal powers of the governing boards of the war memorial, the M. H. de Young Memorial Museum or the California Palace of the Legion of Honor.

The commission shall supervise and control the expenditure of all appropriations made by the board of supervisors for music and the advancement of art or music.

The commission shall exercise all reasonable supervision of policy connected with the arts as may hereafter be assigned to it by ordinance or executive action.

The commission shall decide upon any expenditure of less than one thousand dollars ($1,000) within fifteen days after submission, and upon any other matter within thirty days after submission. If it fails so to do, its decision shall be considered unnecessary.

The commission may volunteer advice or suggestion to the owners of private property in relation to the beautification of the same; and any person contemplating to erect any building or make any improvement may submit the plans and designs or sketches thereof to the art commission for advice and suggestions, for which no charge shall be made by the art commission.

DEPARTMENTS UNDER MAYOR
(Continued)

Control of Harbor by City and County

SECTION 47. Whenever the State of California shall grant, or by legislative action agree to grant, to the City and County of San Francisco all or a substantial part of the property now under the jurisdiction, possession, control and management of the board of state harbor commissioners, including the interest of the State of California in that portion of the bay of San Francisco now controlled by the board of state harbor commissioners and used as the harbor of San Francisco, the said city and county shall accept the same, and shall thereafter have authority to manage, govern, administer and control, all and singular, the property, rights and privileges granted, assigned or conveyed by the said State of California. Said city and county shall also have power, subject to the bond issue procedure provided for in this charter, or now or hereafter provided for by the laws of the State of California to assume an obligation or obligations to the State of California for the outstanding bonded indebtedness incurred by the State of California for the acquisition, construction, improvement and development of the said harbor or of the properties used in connection therewith, or to issue new and additional bonds therefor; and any and all indebtedness assumed or bonds issued for said purpose shall not be included in the bonded debt limit provided for in section 104 of this charter, and if thereafter any additional bonded indebtedness is incurred to improve, construct, re-construct or extend said harbor, or to add thereto or to renew, construct or re-construct, operate or extend any service or equipment or utility used in connection with said harbor or in connection with the operation thereof, said bonded indebtedness so incurred shall also be exempt from the limitations contained in section 104 of this charter. All the powers and duties incident to the management, government, control and administration of the said harbor, and all properties and utilities used in connection therewith, shall be vested in the harbor commission of the City and County of San Francisco.

Said harbor commission of the City and County of San Francisco shall consist of five members to be appointed by the mayor, one of whom shall be a representative of the agricultural interests of the State of California and need not be a resident of the city and county. The term of office of each of said members shall be five years, provided that those first appointed to said commission shall so qualify themselves by lot that their terms of office shall expire respectively, one, two, three, four and five years after the 15th day of January next after their respective appointments. Vacancies on said board shall be filled by the mayor for the unexpired term. Each of said persons appointed to said commission shall give a bond in the sum of five thousand dollars ($5,000) duly conditioned for the faithful performance of his duties and said persons so appointed shall be subject to recall, suspension, and removal in the same manner as an elective official. The compensation of each of the members of said harbor commission shall be twelve hundred dollars ($1,200) per year. [*Amended, 1937*]

Powers and Duties of Harbor Commission

SECTION 48. The said harbor commission shall have possession, control and management of all and singular the properties and equipment granted to the City and County of San Francisco by the State of California for harbor purposes, as well as that portion of the bay of San Francisco now operated and controlled by the board of state harbor commissioners for harbor purposes, and also all property and equipment hereafter acquired by the city and county for said purposes.

Said harbor commission shall have all of the powers and duties given to boards and commissions by section 19 of the charter, and in addition thereto shall have power:

(a) To regulate and control the anchoring, mooring, towing and docking of all vessels and water craft;

(b) To regulate and control the construction, maintenance, operation and use of, and to use and operate any and all railroads, wharves, warehouses, cold storage or refrigeration plants or other structures, improvements or appliances, used in connection with said harbor, or for the accommodation or promotion of commerce, navigation or fishing in or about said harbor;

(c) To regulate and control all dredging and excavation in or about said harbor;

(d) To fix, regulate and collect fees, rates, tolls or charges for the use or service of all wharves, warehouses, water craft, railroads or other facilities, structures or appliances owned, controlled or operated by said harbor commission, in connection with said harbor, or in connection with, or for the promotion or accommodation of commerce, navigation or fishing. All of said fees, rates, tolls and charges shall be sufficient to produce sufficient revenue to pay all expenses of every kind and nature incident to the operation and maintenance of said harbor and the properties and equipment used in connection therewith, together with the interest and sinking fund for any outstanding bonds issued by the State of California or by the City and County of San Francisco for the aquisition, construction or extension of said harbor, or of any of the properties or equipment used in connection therewith; provided that should the commission propose a schedule of rates, fees and charges or rentals for the respective services to be furnished by said commission which shall not provide such revenue, it may do so with the approval of the board of supervisors by a two-thirds vote thereof. Said harbor commission shall, from time to time, report to the board of supervisors a proposed schedule of fees, rates, tolls and charges to be made for the several classes of service to be rendered, and said fees, rates, tolls and charges shall be the legal fees, rates, tolls and charges to be paid to said harbor commission for said services, unless the same are disapproved by a two-thirds vote of said board of supervisors, within thirty (30) days after said report is received. If said board of supervisors by a two-thirds vote rejects said schedule, it may return the same to the said harbor commission for revision;

(e) To enter into leases of lands, buildings, docks and piers, said leases to be approved by the board of supervisors before the same shall be effective; provided that the right to use any building, dock or pier for a period not to exceed one year shall not be deemed a lease under this section and the board shall have power to assign the use of any building, dock or pier for a period not exceeding one year at the regular tolls;

(f) To appoint a harbor master who shall be the chief executive of the harbor commission and who shall have the management of all of the affairs and activities placed under the jurisdiction of the said board. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission subject to the annual appropriation and salary ordinance. He shall hold his office at the pleasure of the commission and shall have the management of said harbor and of all of the facilities and equipment thereof and of all bureaus and departments established for the operation of said harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission he shall appoint and remove any and all heads of departments or bureaus, who may not be subject to the civil service provisions of the charter. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable private employment. The commission may confer on him such additional powers and authority as it may see fit;

(g) To establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs;

(h) To enter into such agreements, subject to the approval of the board of supervisors with the State of California, the board of state harbor commissioners, or any other state agency or department that may be necessary to obtain and receive, take or hold any properties, privileges or things granted to the city and county by the state;

(i) To institute, defend or prosecute, in the name of the City and County of San Francisco, any and all actions or legal proceedings necessary or proper to acquire, hold or defend the possession of any property granted to the said city and county, or held by said city and county, for harbor purposes, and to institute and prosecute any and all actions or legal proceedings necessary or proper to prevent the obstruction or illegal use or occupation of any of the properties, things or facilities held by the city and county for the purposes of said harbor. The city attorney shall be the legal adviser of the commission, and may, with the approval of the commission compromise, settle or dismiss any litigation or legal proceeding pending for, or on behalf of the commission, relative to any matter under its jurisdiction, provided that if such action or proceeding involves the title or right of possession of any real property owned by the city and county, such action shall not be compromised, settled or dismissed without the concurrence of the board of supervisors. The city attorney shall, at the request of the commission detail the necessary attorneys to perform the legal work of the commission, and said commission may, with the consent of the mayor and the approval of the city attorney, appoint special counsel for temporary purposes. The compensation of all attorneys serving the commission shall be paid from the revenues of the harbor, unless otherwise provided in the salary and appropriation ordinance.

The board of supervisors may confer upon said harbor commission such other and additional powers as it shall deem proper and which are not in conflict with this section. [*Amended, 1937*]

Employees of Harbor Commission

Section 48.1. All persons actually employed in the operating service of the board of state harbor commissioners at the time the City and County of San Francisco shall take over and assume the management and control of the said harbor and the properties used in connection therewith, and who at said date shall be entitled to benefits of the civil service provisions of the State of California, in so far as the same may be applicable to the employees of the board of state harbor commissioners, shall be continued in their respective positions and shall continue to hold their said positions pursuant to the civil service provisions of this charter, and shall be entitled to all of the rights, benefits and privileges which said persons might have, or might have had, had said persons been originally appointed to their respective positions under certification from the civil service commission of the City and County of San Francisco; and in the matter of seniority, in service of said employees entitled to the benefits of said civil service provisions, as herein provided, the seniority of each employee shall be reckoned from his first permanent appointment to employment under said board of state harbor commissioners, and as to their respective positions, said employees shall have preference over all other employees of the city and county.

All employees of the board of state harbor commissioners at the time this act shall go into effect shall continue to be members of the state employees' retirement system, with all the rights, privileges and benefits of said system until the time of the actual transfer to the City and County of San Francisco of the properties now under the jurisdiction of said board of state harbor commissioners; and upon the acceptance of said transfer by the City and County of San Francisco, said employees shall become members of the San Francisco city and county retirement system and shall be entitled to all the benefits and privileges and subject to the obligations of said system and the retirement board of the San Francisco City and County Employees' Retirement System shall make such allowance and provision for the prior service of said employees rendered to the board of state harbor commissioners as may be recommended by said retirement board and approved by ordinance of the board of supervisors.

All employees whose respective employments are transferred from the board of state harbor commissioners to the harbor commission of the City and County of San Francisco, pursuant to the provisions of this section or pursuant to the provisions of any act of the Legislature of the State of California transferring the properties now under the jurisdiction of the board of state harbor commissioners to the City and County of San Francisco, and who, at the date of the actual transfer of said properties, reside outside of the City and County of San Francisco, shall not be subject to the residential qualifications of officers and employees of the city and county provided for in section 7 of this charter.

In the matter of the control and operation of the harbor and of the facilities and equipment thereof, including the matter of budgets and appropriations, the harbor commission shall be subject to the budgetary and fiscal procedure elsewhere provided for in this charter.

Full power and authority is hereby vested in the board of supervisors of the City and County of San Francisco to enter into such supplemental agreements with the State of California, or with the board of state harbor commissioners, or with any other agency of the State of California, not in conflict with the provisions of this charter, in order to meet any condition provided for by the Legislature of the State of California in the transfer to the City and County of San Francisco of said properties now under the jurisdiction of the board of state harbor commissioners, and any agreement so entered into will be as binding upon the City and County of San Francisco as if the provisions of said agreement were embodied in this charter.

The revenues of said harbor, and of all the properties incident thereto, or used in connection therewith, shall be deposited in a separate fund in the treasury of the city and county, and shall be used for the following purposes, and in the order herein named:

(a) For the payment of operating expenses, including pension charges.

(b) For the payment of the principal and interest of any obligations of the State of California and assumed or agreed to be paid by the City and County of San Francisco;

(c) For repairs and maintenance of the properties of said harbor or used in connection with the operation thereof;

(d) For the payment of the principal and interest on any bonds issued by the City and County of San Francisco for the acquisition, construction, repair or extension of said harbor, or of any of the facilities used in connection therewith;

(e) An amount which shall be sufficient to meet the cost of reconstruction and replacement made necessary by the physical and functional depreciation of any of the properties or equipment of said harbor, as the same shall occur;

(f) To pay for extensions and betterments to said harbor or to the equipment and facilities thereof;

(g) To establish a surplus or sinking fund for the improvement or extension of the harbor or for any facility used in connection therewith. [*New section, 1937*]

Appointments And Nominations By Mayor

Section 49. The mayor shall nominate members of the board of education for confirmation by the voters, and shall appoint two members of the retirement board, and shall also appoint members of the public utilities, city planning and civil service commissions, each of which said boards or commissions to have the membership, terms of members, and powers and duties as are provided in this charter.

OTHER BOARDS AND DEPARTMENTS

California Palace of the Legion of Honor

Section 50. The California Palace of the Legion of Honor shall be known as such in perpetuity. The management, superintendence and operation thereof and the lands set aside therefor shall be vested in a board of eleven trustees, of which the mayor and the president of the recreation and park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. The number of trustees may be increased from time to time as needed, provided that at no time shall the total number of trustees exceed seventeen. The trustees in office at the time, shall, in their discretion, determine the need for additional trustees. Upon making such determination, the additional trustees shall be elected by the majority of the board then in office. None of said trustees shall receive any compensation for his or her services. Trustees need not be residents of the city and county.

The board shall have exclusive charge of the said memorial, the lands set aside therefor, and its affairs, and of all real and personal property thereunto belonging, or which may be acquired by loan, purchase, gift, devise, bequest or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise or bequest. It shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director. curators and secretary, who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter; provided that all such assistants and employees who were actually employed, or who were on military leave of absence from employment on January 11, 1943 and who had been continuously employed for one year immediately preceding such date or such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject to the civil service provisions of this charter. The secretary shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller. The trustees shall have power to insure loan exhibits against any risk.

The supervisors, for the purpose of maintaining, operating and superintending said memorial, and the purchase of objects of art, literary productions and other personal property, shall provide an amount sufficient for the maintenance, operation, and superintendence thereof; subject to the budget and fiscal provisions of this charter, and to that end shall levy a tax annually, the proceeds of which shall be credited to and deposited in a fund in the treasury of the city and county to be known as the "California Palace of the Legion of Honor Fund," and shall be used exclusively for the purposes thereof.

It is the intention that the administration and control of the California Palace of the Legion of Honor shall be continued with the powers granted and under the conditions imposed by the terms of the donation and accepted by the city and county. [*Amended, 1943; 1952*]

M. H. de Young Memorial Museum

SECTION 51. The M. H. de Young Memorial Museum shall be known as such in perpetuity. The museum and the grounds set aside therefor shall be under the management, superintendence, and operation of a board consisting of eleven trustees, of which the mayor and the president of the park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. The number of trustees may be increased from time to time as needed, provided that at no time shall the total number of trustees exceed seventeen. The trustees in office at the time, shall, in their discretion, determine the need for additional trustees. Upon making such determination, the additional trustees shall be elected by the vote of the majority of the board then in office. None of said trustees shall receive any compensation for his or her services.

The board shall have exclusive charge of the said memorial museum, the lands set aside therefor, and its affairs, and of all real and personal property thereunder belonging, or which may be acquired by loan, purchase, gift, devise, bequest, or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise, or bequest. The trustees shall have power to insure loan exhibits against any risk. The park commission shall maintain and care for the grounds of this memorial museum, and shall furnish the moneys for the necessary repair and embellishment of the grounds and unoccupied parts.

The board of trustees shall have the power to maintain, repair or reconstruct existing buildings and construct new buildings and to make and enter into contracts relating thereto, subject, however, to the budget and annual appropriation ordinance. The supervisors, subject to the budget provisions of this charter, shall, for the purpose of maintaining said memorial museum, include in each annual budget of city and county expenditures an amount sufficient for the maintenance, operation and superintendence thereof, not less than forty thousand dollars ($40,000) in each annual budget, and such additional amount as is necessary to take care of the increased demand for help, buildings, repairs, and care of said memorial museum. Such amount shall be credited to and deposited in the fund in the treasury of the city and county to be known as the "M. H. de Young Memorial Museum Fund." The board shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter; provided that all such assistants and employees who are actually employed, or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date of such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject to the civil service provisions of this charter. The secretary shall keep a full account of all property, money, receipts and expenditures and a record of all its proceedings, and shall file annually a report with the controller.

It is the intention that the administration and control of the M. H. de Young Memorial Museum shall be continued with the powers granted and under the conditions imposed by the terms of the donations and accepted by the city and county. [*Amended, 1943; 1948*]

California Academy of Sciences

SECTION 52. The management, superintendence, and operation of all buildings and other improvements heretofore or hereafter erected by or under the authority of the California Academy of Sciences, a non-profit corporation organized under the laws of the State of California for the promotion of science, on any property owned or controlled by the park commission of the City and County of San Francisco, shall be in charge and under the direction of said California Academy of Sciences. The buildings and improvements hereby referred to include, without limitation, the Steinhart Aquarium, the original Natural History Museum and the Simson African Hall, located in Golden Gate Park and heretofore erected by or under the authority of the California Academy of sciences, together with the proposed additions thereto for the purpose of housing, among other things, the proposed Alexander F. Morrison Planetarium, and a proposed auditorium, if and when erected by said California Academy of Sciences.

In addition to all other approvals required by law, plans for all proposed buildings and improvements, including any additions, must be approved by the park commission and the art commission. The park commission, notwithstanding any provisions of the charter to the contrary, is hereby authorized. subject to approval by the board of supervisors by ordinance, to set apart from time to time such portions of property under its control, as may be required for such buildings and improvements, sufficient grounds being allotted to secure the safety of the same from fire. The erection of buildings or additions to buildings shall not be started by the California Academy of Sciences until it shall have submitted a statement satisfactory to the park commission of its ability to finance the proposed work to completion. All buildings and improvements heretofore or hereafter erected by or under the authority of said California Academy of Sciences in or on property owned or controlled by the City and County of San Francisco are and shall become the property of the City and County of San Francisco, but said buildings and improvements and all persons employed therein or thereabout shall be used and controlled exclusively by the said California Academy of Sciences under such proper rules and regulations as it may prescribe, subject, however, to the charter provisions relating to civil service and salary standardization with respect to employees of the city and county. The board of supervisors shall, by ordinance, prescribe the insurance to be furnished by the California Academy of Sciences to save the city and county harmless from claims for damages to persons or property arising from the construction or use of any of said buildings. No fees shall be charged for admission to said buildings or improvements, except that reasonable and appropriate charges may be made by said California Academy of Sciences for admission to or use of the said proposed Alexander F. Morrison Planetarium and proposed auditorium. Particular buildings or improvements or portions thereof may be named in memory of persons designated by said California Academy of Sciences.

Not later than the first day of April in each year the California Academy of Sciences shall file with the mayor and the board of supervisors a statement for the last fiscal year of its expenses and income in connection with the use and operation of each of the buildings included herein.

Funds necessary for the maintenance, operation, and continuance of said Steinhart Aquarium shall be furnished by the city and county to said California Academy of Sciences. The board of supervisors is empowered to furnish to said California Academy of Sciences such funds as the board shall deem proper for the maintenance, operation, and continuance of any or all other of said buildings and improvements heretofore or hereafter erected. Such funds shall be appropriated in accordance with the budget and fiscal provisions of this charter.

All positions in said buildings and improvements for which funds shall be furnished by the city and county, as aforesaid, shall be held by employees of the city and county, with the exception of the director, the secretary of the board of trustees of said California Academy of Sciences, the curators and other scientific and professional personnel, and occupants of part-time positions for which a total compensation of less than $80.00 per month is provided by the city and county, inclusive of allowance for maintenance and other incidental benefits. Any occupant of a position or employee on military leave from a position in any of said buildings or improvements, which position is not within the exceptions hereinabove, or was not heretofore subject to the civil service provisions of the charter, who shall on the effective date of this amendment, be a citizen of the United States, and have been employed in such position for one year immediately prior to said effective date, shall be continued in such position by said city and county on said date, in accordance with the civil service classification of positions as if appointed thereto after examination and certification from a list of eligibles, and shall be governed thereafter by the civil service provisions of the charter. Each such occupant or employee so employed and each such person on military leave shall, for purposes of civil service seniority be deemed to have been appointed to such position by the city and county upon the date of commencement of his occupancy thereof; provided that if such date is prior to January 16, 1945, the date of commencement of such occupancy shall for purposes of civil service seniority be deemed to be January 16, 1945. Positions held by employees of the city and county at said buildings and improvements shall be subject to the civil service provisions of this charter and the compensation thereof shall be subject to the salary standardization provisions of this charter, in like manner and extent in all respects as positions and compensations of employments in the city and county service generally, notwithstanding anything to the contrary contained in the charter or ordinances of said city and county. The chief administrative officer shall be the appointing officer as provided in this charter.

Nothing herein contained shall abrogate any trust under and by which any property of said California Academy of Sciences has been or shall hereafter be accepted by the city and county or under and by which it is now or shall hereafter be held. [*Amended, 1945; 1946; 1948*]

JUDICIAL DEPARTMENTS

Municipal Court

SECTION 53. The powers and duties of the municipal court of the city and county shall be as established by the constitution and general law, and said municipal court shall be as constituted and regulated by this charter, except as otherwise provided by general law. The compensation of said judges shall be in full for all services, and any fees required to be collected by law by the municipal court or the clerk thereof shall be paid into the treasury of the city and county. No judge of the municipal court shall practice law in or out of court during his continuance in office.

The presiding judge shall supervise and direct the work of the clerk of the municipal court, and shall be responsible for the proper keeping of records and making of reports by the clerk. [*Amended, 1949. See Sec. 11, Art. VI of the Constitution*]

"The merger of the justices' court into the present municipal court . . . became effective on July 1, 1930." **Colla v. Carmichael's U-Drive Auto's, Inc.** (1930) 111 Cal. App. (Supp.) 784, 294 Pac. 378.

Salaries of attaches of court, see notes under § 55.

Municipal Court Regulations and Reports

SECTION 54. The judges of the municipal court shall meet at least once in each month, and at such other times as the presiding judge may require, and shall prescribe rules and regulations not inconsistent with general laws as are necessary and proper for the advancement of justice and prevention of delay in the business of the court.

Not later than the tenth day of each month, the presiding judge, through the clerk of the municipal court, shall file with the board of supervisors a consolidated report of the business of the court and the judges thereof for the preceding month. Copies of such reports shall be filed with the city attorney, the district attorney, the chief of police and the clerk of the municipal court. In January of each year, the presiding judge, through the clerk, shall file a similar report covering the preceding calendar year. The board of supervisors may cause copies of such annual reports to be printed for free distribution to citizens who request them.

Clerk of the Municipal Court

SECTION 55. The clerk of the municipal court shall be appointed by the judges of the court, and shall hold office at their pleasure. The clerk shall appoint, subject to the civil service provisions of this charter, such clerks, stenographers, interpreters and other personnel as may be authorized by appropriation ordinances of the board of supervisors; provided, however, that the sheriff shall, on the order of the court, detail necessary bailiffs to the civil departments thereof, and shall execute the orders and processes issued by the court. The salaries of the clerk and the personnel of the clerk's office shall be fixed by the board of supervisors, as provided by this charter for other city and county employees. The clerk shall have charge, superintendence and control of said office and the personnel thereof, and be responsible for records and reports incidental to the business of the court. He shall have the powers and duties prescribed by general law not inconsistent with this charter.

The power to fix the salaries of attachés of the municipal court, is in the Legislature by virtue of Const. art. vi, § 11, and where it has acted, as in Stats. 1947, ch. 1113, its action supersedes a salary ordinance on the subject. **Slavich v. Walsh** (1947) 82 Cal. App. (2d) 228, 186 Pac. (2d) 35, rehearing denied.

The delegation to the Board of Supervisors of the power to fix salaries of some municipal court attachés, as in Municipal Court Act, § 6 (Deering's Gen. Law, Act 5238) from 1929 to 1947, is not irrevocable, and when the power is withdrawn, and the salaries are fixed by statute, as by Stats. 1947, ch. 1113, the statute is supreme. **Slavich v. Walsh** (1947) 82 Cal. App. (2d) 228, 186 Pac. (2d) 35, rehearing denied.

Superior Court Appointments

SECTION 56. The powers and duties of the superior court are prescribed by state law. The board of supervisors shall provide for the maintenance of the superior court in accordance with the fiscal provisions of this charter. [*Amended, 1949. See Sec. 204e, Code of Civil Procedure*]

The San Francisco Law Library

SECTION 57. The San Francisco Law Library, established under an act of the Legislature approved March 9, 1870, shall be under the management and control of the board of trustees, which shall consist of seven appointive members of the San Francisco bar, and the mayor, the presiding judge and the three judges of the appellate department of the superior court, ex officio. The board of trustees holding office at the time this charter shall go into effect shall continue as the board of trustees of said library. All vacancies on said board shall be filled by said board.

The board of trustees shall appoint and at its pleasure may remove a librarian, who shall be its executive officer, and such assistants as are necessary for the proper conduct and operation of the library. The salaries of the librarian and the assistants and employees shall be fixed by the board of supervisors as provided by this charter for other city and county employees.

The supervisors shall provide suitable and sufficient quarters for the law library, fit up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The library shall be so located as to be readily accessible to the judges and the officers of the court.

The county clerk and the clerk of the municipal court shall collect the fees provided for law libraries by general law and the fees so collected by such officers or by any officers under any other provisions of the law shall be paid to the treasurer of the law library monthly, and shall constitute a law library fund to be expended by the law library trustees in the purchase of books and periodicals, and in the establishment and maintenance of the law library.

The judiciary, city, county and state officials, members of the bar and all inhabitants of the City and County of San Francisco shall have free access, use and enjoyment of the law library, subject to rules and regulations of the board of trustees.

Probation Boards

Section 58. The adult probation committee and the juvenile probation board or committee shall continue to exercise their respective powers and duties as fixed by state laws, except as in this charter otherwise provided.

The superior court judges of the city and county presiding in the department or departments for the hearing and disposition of criminal cases and proceedings shall, by order entered in the minutes of the court in the criminal department or departments thereof, appoint the adult probation officer.

The judge of the superior court of the city and county who has been, or who hereafter may be, designated the judge of the juvenile court, shall, by order entered in the minutes of the court, appoint the probation officer of the juvenile court.

The adult probation officer shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the adult probation board or committee created by state law.

The probation officer of the juvenile court shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the juvenile probation board or committee created by state law.

The salaries of the adult probation officer, the probation officer of the juvenile court, their assistants, deputies and employees shall be fixed by the board of supervisors in the same manner as for other officials and employees of the city and county.

The adult probation officer, the probation officer of the juvenile court and their assistants and deputies shall have the powers conferred upon adult probation officers, probation officers of the juvenile court, their assistants and deputies, by the laws of the State of California; and they shall perform all of the duties prescribed by such laws, and such additional duties as may be prescribed by ordinances of the board of supervisors.

The civil service provisions of this charter shall apply to and govern the assistants, deputies and employees of the adult probation officer and the probation officer of the juvenile court. For purposes of this charter the adult probation officer shall be the appointing officer as to his assistants, deputies and employees, subject to confirmation as aforesaid; and the said probation officer of the juvenile court shall be the appointing officer as to his assistants, deputies, and employees, subject to confirmation as aforesaid.

Any person who has served as an assistant, deputy or employee of such adult probation officer or probation officer of the juvenile court, or in the probation department of the city and county for a continuous period of one year immediately prior to the time this charter shall go into effect, and who shall be actually serving as such assistant, deputy, or employee at that time, is hereby declared to be appointed within the civil service provisions of this charter to the office or position in which he may then be serving; and shall be entitled to all the benefits of this charter thereafter.

The pension and retirement provisions of this charter shall apply to and govern the adult probation officer, the probation officer of the juvenile court, their assistants, deputies and employees.

CHIEF ADMINISTRATIVE OFFICER

Section 59. The mayor shall appoint as chief administrative officer a qualified person who shall have been a resident of the State of California for at least five years immediately preceding his appointment. The requisite qualifications of such appointee shall be administrative and executive ability and experience for the position to be filled. The first such appointment shall be made immediately after twelve o'clock noon on the 8th day of January, 1932. He shall be paid an annual salary of twelve thousand dollars ($12,000). [*Salary of chief administrative officer now subject to Section 151.1.*]

He shall be subject to suspension and removal in the same manner as elective officers. He shall also be subject to removal by a vote of not less than two-thirds of the board of supervisors, on the basis of written charges, and, if he so request, only after a public hearing on such charges before the board of supervisors not less than five days nor more than fifteen days after the filing thereof, and prior to the date on which the supervisors shall vote on the question of his removal, but on the filing of written charges, and pending and during such hearing, the supervisors, by majority vote, may suspend him from office. The written charges and any reply thereto by the chief administrative officer shall be entered at length in the journal of the board of supervisors. The action of the board of supervisors in removing the chief administrative officer shall be final.

See **Kennedy v. Ross**, § 61; **Rand v. Collins**, § 62.

Powers and Duties of Chief Administrative Officer

Section 60. The chief administrative officer shall be responsible to the mayor and to the board of supervisors for the administration of all affairs of the city and county that are placed in his charge by the provisions of this charter and by ordinance, and to that end he shall have power and it shall be his duty to exercise supervision and control over all administrative departments which are under his jurisdiction; to appoint the heads of departments under his control and the members of advisory and other boards provided by this charter or by ordinance to be appointed by the chief administrative officer; to prescribe general rules and regulations for the administrative service under his control; to have a voice but no vote in the board of supervisors, with the right to report on or to discuss any matter before the said board concerning the affairs of the departments in his charge; to make such recommendations and propose such measures to the mayor, the board of supervisors, or committees thereof, concerning the affairs of the city and county in his charge as he may deem necessary; to coordinate the functioning of the several departments of the city and county charged with powers and duties relating to control of traffic; and to provide for the budgeting and control of publicity and advertising expenditures of the city and county.

The chief administrative officer may designate an officer or an employee in any department under his jurisdiction to exercise the powers and perform the duties of any county office not specifically designated by this charter.

The chief administrative officer may designate the recorder to exercise the powers and perform the duties of the registrar of voters and to occupy the offices of registrar of voters and recorder, receiving a single salary therefor to be fixed in accordance with the salary standardization provisions of this charter. [*Amended, 1948*]

See **Rand v. Collins**, § 62.

Authority to make office of Recorder appointive, see note under § 62.

CHIEF ADMINISTRATIVE OFFICER
(Continued)

Administrative Departments Under Chief Administrative Officer

SECTION 61. From and after twelve o'clock noon on the 8th day of January, 1932, the functions, activities and affairs of the city and county that are hereby placed under the direction of the chief administrative officer by the provisions of this charter, and the powers and duties of officers and employees charged with specific jurisdiction thereof, shall, subject to the provisions of section 2 and section 20 of this charter, be allocated by the chief administrative officer, among the following departments:

Department of Finance and Records, which shall include the functions and personnel of the offices of tax collector, registrar of voters, recorder, county clerk and public administrator, and shall be administered by a director of finance and records who shall be appointed by the chief administrative officer and hold office at his pleasure. The public administrator shall appoint and at his pleasure may remove an attorney who shall be paid an annual salary of eight thousand dollars ($8,000). He may also appoint such assistant attorneys as may be provided by the budget and annual appropriation ordinance.

Purchasing Department, which shall include the functions and personnel of the bureau of supplies, the operation of central stores and warehouses, and the operation of central garages and shops, and shall be administered by the purchaser of supplies who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Real Estate Department, which shall include the functions and personnel of the office of the right-of-way agent as established in the bureau of engineering at the time this charter shall go into effect, and also the control, management and leasing of the exposition auditorium.

Department of Public Works. which shall include the functions and personnel of the department of public works, as established at the time this charter shall go into effect, with the exception of functions and personnel which are established by this charter under the management, direction and control of the public utilities commission, and which department shall also include the functions and personnel of the telephone exchange. This department shall be administered by the director of public works, who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

> The powers otherwise clearly vested in the Director of Public Works are not limited by § 106, providing for making by him of examinations, plans and estimates required by the Supervisors. Kennedy v. Ross (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Department of Electricity, which shall include the functions and personnel of the department of electricity as established at the time this charter shall go into effect. The department shall be administered by a chief of department who shall, from and after twelve o'clock noon on the 8th day of January, 1932, have the powers and duties of the joint board of fire and police commissioners composing the joint commission in charge of the department of electricity, at which time the joint commission shall be abolished.

The premises of any person, firm or corporation may, for the purpose of police or fire protection, be connected with the police or fire signal or telephone system of the city and county upon paying a fair compensation for such connection and the use of the same, provided that any such connection shall require the approval of the chief of the department of electricity and shall not in any way overload or interfere with the proper and efficient operation of the circuit to which it is connected. The conditions upon which such connection shall be made and the compensation to be paid therefor shall be fixed by the board of supervisors by ordinance upon the recommendation of the chief of the department.

Department of Public Health, which shall include the functions, institutions and personnel of the department of public health as existing at the time this charter shall go into effect. Said department shall be administered by a director of health, who shall be a regularly licensed physician or surgeon in the State of California, with not less than ten years' practice in his profession immediately preceding his appointment thereto. He shall be appointed by the chief administrative officer and shall hold office at his pleasure, provided that the incumbent health officer at the time this charter shall go into effect shall be deemed appointed to such office. The director of public health shall have and continue the powers and duties of the health officer and the board of health, from and after twelve o'clock noon on the 8th day of January, 1932, at which time the terms of members of said board shall terminate, and such board as theretofore existing shall be abolished.

Health Advisory Board. There is hereby created a health advisory board of seven members, three of whom shall be physicians and one a dentist, all regularly certificated. Members of the board shall serve without compensation. They shall be appointed by the chief administrative officer for terms of four years; provided, however, that those first appointed shall classify themselves by lot so that the terms of one physician and one lay member shall expire in 1933, 1934 and 1935, respectively, and the term of one member in 1936.

Such board shall consider and report on problems and matters under the jurisdiction of the department of public health and shall consult, advise with and make recommendations to the director of health relative to the functions and affairs of the department. The recommendations of such board shall be made in writing to the director of health and to the chief administrative officer.

Coroner's Office, which shall include the functions and personnel of the existing office of coroner as established at the time this charter shall go into effect.

County Agricultural Department, which shall be administered by a county agricultural commissioner and shall include functions established by state law and those assigned to it by or in accordance with provisions of this charter.

Department of Weights and Measures, which shall include the functions and personnel of the office of sealer of weights and measures as established at the time this charter shall go into effect. [*Amended, 1949*]

PUBLIC WELFARE DEPARTMENT

Section 61.1. Subdivision 1. There is hereby established a public welfare department. This department shall consist of a welfare commission of five members, a director of public welfare, and such employees and assistants as may be necessary to carry out the work and functions of said department.

Subdivision 2. The members of the welfare commission shall be appointed thereto by the mayor and shall be selected for their respective positions on the basis of their interest in and understanding of the problems of public welfare. The members of said commission shall serve without compensation and no person shall be eligible to serve on said commission while holding a salaried public office, position or employment.

Subdivision 3. The term of office of the members of the said commission, subject to the provisions hereof relative to removal and the terms of the first members of the commission, shall be four years. Within thirty days after this amendment shall become effective the mayor shall appoint five members to said welfare commission, one member to be appointed for a term to expire on the 15th day of January, 1938; one for a term to expire on the 15th day of January, 1939; one for a term to expire on the 15th day of January, 1940, and two for terms to expire on the 15th day of January, 1941; and upon the expiration of the terms of each of said members of said commission so appointed the mayor shall fill the vacancy arising by reason of the expiration of said term by the appointment of a member to said commission for a term of four years. Vacancies occurring in the membership of said commission shall be filled by an appointment to be made by the mayor for the unexpired term of said person in whose place said appointment is made; and when the term of any member of said commission shall expire, then said appointment shall be made for the full period of four years from the date of the expiration of the term. All vacancies shall be filled within thirty days of the occurrence thereof.

Subdivision 4. Members of the commission shall be subject to removal from office by the mayor for cause, but only upon written charges made and signed by the mayor, copy of said charges to be served upon the offending commissioner; and said charges shall be heard by the mayor and on said hearing of said charges the said commissioner so charged shall have the opportunity to appear and to be heard.

Subdivision 5. The commission shall be a policy-determining and supervisory body and shall have all the powers provided for in section 19 of the charter.

Subdivision 6. The commission shall appoint and, subject to the budgetary provisions of this charter, fix the salary of a director of public welfare who shall serve at the pleasure of said commission and shall not be subject to the civil service provisions of the charter. Said director shall possess qualifications and experience essential to the conduct of a complete program of public welfare. Said director shall be the chief executive of the department and shall have all the powers provided for chief executives as set forth in section 20 of the charter. He shall be responsible for the enforcement of the rules and regulations of the commission and, upon the recommendation of the commission, shall have the power to establish such divisions and bureaus as may be necessary for the administration of relief and welfare in the City and County of San Francisco.

Subdivision 7. All employees in the public welfare department, with the exception of the director thereof, shall be subject to the civil service provisions of the charter and, subject to said provisions, the director of public welfare may employ such employees as may be necessary for the carrying out of the work and functons of the department. The functions and duties of the county welfare department as established and existing at the time this amendment shall go into effect shall be transferred and shall be included in the public welfare department and the personnel of said county welfare department shall be so transferred and shall hold their respective positions under the same conditions and upon the same tenure as the same were held in the county welfare department. The functions of the Citizens' Emergency Relief Committee appointed pursuant to Ordinance No. 19.07120 shall be transferred to said public welfare department.

In all cases where there are no civil service lists available from which any position existing under the Citizens' Emergency Relief Committee, at the effective date of this amendment, can be filled, examinations shall be held by the civil service commission within six months after said date to establish a list or lists of eligibles to fill said positions. Any person who has served under the general supervision of the Citizens' Emergency Relief Committee for a period of one year continuously next prior to the effective date of this amendment and who shall actually be employed under the supervision of said Citizens' Emergency Relief Committee on said date shall, upon obtaining a passing mark on any examination held by said civil service commission for his position, be allowed an additional credit of five per cent (5%) in making up the list of eligibles secured by such examination. The civil service commission shall be allowed a period of six months from the effective date of this amendment within which to classify or reclassify, or hold examinations for eligible lists for the positions now existing under said Citizens' Emergency Relief Committee, and pending the classification of said positions and the holding of examinations therefor, where the same is necessary, the incumbents in said positions shall be entitled to continue in their positions and receive the compensation provided by law for their services.

Subdivision 8. Said public welfare department shall exercise all of the functions exercised by the county welfare department and by the Citizens' Emergency Relief Committee as the same exist at the time this amendment is approved by the Legislature of the State of California and shall perform such other duties and have such other functions as may be authorized by the board of supervisors of the City and County of San Francisco or required by the government of the United States or the State of California or any department or agency thereof. [*New section, 1937*]

DEPARTMENT AND BUREAU HEADS—CONTINUED

Certain Officers Made Subject To Civil Service Provision of Charter

Section 62. Offices heretofore elective which are, by the provisions of this charter, made appointive, shall come within the civil service provisions of this charter and any incumbent in any such office at the time this charter became effective on January 8, 1932, shall, if he has held such office for one year continuously prior thereto, be deemed appointed to such position, at his then existing salary, under the civil service provisions of this charter, and thereafter shall hold office under such provisions; provided that such salaries so continued shall apply only to such incumbents as long as they legally hold such positions and, on the appointment of a successor to any such incumbent, the salary of such position shall be subject to the salary standardization provisions of this charter.

Other positions as heads of departments, bureaus, offices or institutions which have heretofore been exempt from charter civil service provisions, are hereby declared to be subject to the civil service provisions of this charter unless specifically exempted, and any incumbent in any such position at the time this charter became effective on January 8, 1932, shall, if he has held office for one year continuously prior thereto, be deemed appointed to such position under the civil service provisions of this charter and thereafter shall hold office under such provisions. [*Amended, 1946*]

Persons in Office on Adoption of Charter as Their Own Successors.—Const. art. xi, § 8½, permitted the making of certain officers who were in office when the Charter was approved by the Legislature successors of themselves, subject to the provisions of the Charter. **Rand v. Collins** (1931) 214 Cal. 168, 4 Pac. (2d) 529.

The provision continuing in office the incumbent at the time of the Charter's effective date in the offices of coroner, auditor and county clerk did not violate Const. art. xi, § 9, forbidding an extension of term of an officer beyond the period for which he was elected or appointed, since § 226 worked a destruction of the old terms of office and the terms were new and distinct. **Rand v. Collins** (1931) 214 Cal. 168, 4 Pac. (2d) 529.

Appointive Offices.—Under Const. art. xi, § 8½, the City and County had authority to provide that the Tax Collector, Registrar of Voters, Recorder, County Clerk, and Public Administrator, comprising the Department of Finance and Records, should be appointive and come within the civil service provisions. **Rand v. Collins** (1931) 214 Cal. 168, 4 Pac. (2d) 529.

Offices heretofore elective which are appointive by the provisions of the new Charter, such as the Tax Collector, Registrar of Voters, Recorder, County Clerk, and Public Administrator, now come within the civil service provisions of the Charter. **Rand v. Collins** (1931) 214 Cal. 168, 4 Pac. (2d) 529.

CONTROLLER

Controller—Appointment and Removal

SECTION 63. There shall be a controller, who shall be appointed by the mayor, subject to confirmation and approval by the board of supervisors. Such appointment shall be made solely on the basis of qualifications by training and experience for the position to be filled. He may be removed by the supervisors by a two-thirds vote. He shall receive an annual salary of ten thousand dollars ($10,000). [*Salary of controller now subject to Section 151.1.*]

The incumbent in the office of auditor on the 7th day of January, 1932, provided he has held such office for one year continuously prior thereto, shall be deemed appointed at his existing salary under the civil service provisions of this charter, to the position of county accountant, which position is hereby created.

General Powers and Duties of Controller

SECTION 64. The controller shall be the successor of the auditor, and shall have the powers and duties of a county auditor, except as in this charter otherwise provided. He shall be the auditor and chief accounting officer of the city and county, and shall exercise general supervision over the accounts of all officers, commissions, boards and employees of the city and county charged in any manner with the receipt, collection or disbursement of city and county funds or of other funds, in their capacity as city and county officials or employees. He shall have the power and duty of prescribing the method of installing, keeping and rendering accounts of, and the financial reports to be rendered by, the several officers, boards and employees of the city.

The controller shall keep accounts showing the financial transactions of all departments, offices and other subdivisions of the city and county. Such accounts and the accounting procedure shall be adequate to record (a) all budgeted revenues and appropriations, together with additions or transfers thereto, and to show at all times the amount of encumbrances, expenditures or transfers therefrom, and the balances therein; (b) all revenues accrued and liabilities incurred; (c) all cash receipts and disbursements; and (d), in general, all transactions affecting the acquisition, custody or disposition of values.

Subject to the provisions of this section, the public utilities commission shall maintain separate accounts for each utility in such manner as to exhibit exact and complete financial results of ownership, management and operation; the actual cost of each utility; all costs of maintenance, extension and improvement; all operating expenses of every description; the general expenses of the commission and bureaus thereof apportioned to each such utility; the amount paid or set aside for depreciation, insurance, interest and sinking fund; and estimates of the amount of taxes that would be chargeable against such property and the revenue thereof if privately owned and operated. All accounts shall be maintained in accordance with forms and requirements of the state railroad commission for public utilities engaged in like character of service, in so far as these shall be applicable to publicly owned and operated utilities.

It shall be the duty of the controller to determine, where practicable, the unit cost of work done by the city and county for the purpose of determining whether similar work could be done under public contract at a lower cost. The controller shall devise adequate systems of internal check of all departments and offices of the city and county relative to the custody, collection or disbursement of moneys.

See Rand v. Collins, § 62.

Controller's Reports

Section 65. The controller shall annually make a complete financial report which shall be audited and distributed as provided in section 68 of this charter. The controller shall also make a quarterly report not later than the 25th day of the month succeeding the last preceding quarter, showing a summary statement of revenues and expenditures for the preceding quarter and for that portion of the fiscal year ending on the last day of such preceding quarter. Such statement shall include all general and funding accounts and shall be detailed as to assets, liabilities, income, expenditures, appropriations and funds, in such manner as to show the financial conditions of the city and county and of each department, office, bureau or division thereof, for that portion of the fiscal year to and including the preceding quarter, and with comparative figures for the similar period in the preceding fiscal year. The controller shall at the same time prepare statements showing at the end of each quarter the cash position of the city and county (and the unencumbered balance in each fund). He shall also prepare quarterly for each of the several funds a summary of the resources available and estimated to be collectible, obligations authorized and estimated to be expendable, and surplus in such a manner as to show the estimated cash position of each fund at the end of the fiscal year. He shall also prepare monthly and transmit to all department heads concerned, reports showing the allowances, expenditures, encumbrances and unencumbered balances of each revenue and expenditure appropriation. A copy of each such quarterly report and special fiscal reports as requested, shall be transmitted to the mayor, the board of supervisors, the chief administrative officer, and kept on file in the controller's office. [*Amended, 1935*]

Audits by Controller

SECTION 66. The controller shall audit the accounts of all boards, officers and employees of the city and county charged in any manner with the custody, collection, or disbursement of funds. The controller shall audit monthly all accounts of money coming into the hands of the treasurer. He shall make an audit monthly of each departmental revolving fund authorized by this charter or by the board of supervisors.

When requested by the mayor, the board of supervisors, the chief administrative officer, or any board or commission for its own department, he shall audit the accounts of any officer or department, and on the death, resignation, removal, expiration of term or retirement of the head of any department or office, or any officer or employee charged with the receipt, collection or disbursement of money, shall make an audit of the accounts of such department, officer or employee.

Custody and Examination of Official Bonds

SECTION 67. The controller shall be the custodian of all official bonds excepting the bond of the controller, which shall be in the custody of the mayor. The controller must at least once in every six months examine all official bonds and investigate the sufficiency and solvency of the sureties thereon, and forthwith report in writing the facts to the mayor. Upon receipt of such report, the mayor shall take such action as shall be necessary to protect the city and county, and may require new bonds and may suspend any officer or employee until a sufficient bond is filed and approved. The mayor shall make similar periodic examination of the controller's bond.

Annual Audits by Supervisors

Section 68. The board of supervisors shall order an annual audit of the controller's books of accounts, records and transactions, to be made by one or more certified public accountants. The report of such auditor or auditors for the fiscal year shall be printed and a copy thereof furnished to the mayor, each member of the board of supervisors, the chief administrative officer, and the controller, and to such citizens as may apply therefor.

BUDGET AND FISCAL PROCEDURE

Budget Estimates

SECTION 69. · The fiscal year for the city and county shall begin on the 1st day of July of each year.

The budget estimate for every department and office of the city and county, whether under an elective or an appointive officer or a board or commission, and separately for each utility under the control of the public utilities commission, shall be filed by the executive of such department with, and shall be acted upon by, such board or commission. All budget estimates shall be compiled in such detail as shall be required on uniform blanks furnished by the controller. The public utilities commission and the board of education must hold public hearings on their respective budget proposals. Each such elective and appointive officer, board or commission shall, not later than the 1st day of February of each year, file with the controller for check as to form and completeness two copies of the budget estimate as approved.

The chief administrative officer shall obtain in ample time to pass thereon budget estimates from the heads of departments or offices subject to his control, and, after adjusting or revising the same, not later than the 1st day of February he shall transmit such budget estimates to the controller.

The controller shall check such estimates and shall upon his request, be furnished with any additional data or information. Not later than the 1st day of March of each year he shall consolidate such budget estimates and transmit the same to the mayor.

He shall at the same time transmit to the mayor a summary and recapitulation of such budget estimates, segregated by separate departments or offices and units thereof, or by purposes for non-departmental expenditures, and arrange according to classification of objects of expenditure, as required by the controller, to show the amount of proposed expenditures and estimated revenues in comparison with the current and previous fiscal year's expenditures and revenues.

He shall submit at the same time (1) statements showing revenues and other receipts, including the estimated unencumbered surplus in any item or fund at the beginning of the ensuing fiscal year, segregated according to specific or general purposes to which such revenues or receipts are legally applicable, for the last complete fiscal year and for the first six months of the current fiscal year, with estimates thereof for the last six months of the current fiscal year, together with estimates of such revenues and receipts for the ensuing fiscal year; (2) statements of the amounts required for interest on, and sinking fund or redemption of, each outstanding bond issue, and for tax judgments, and other fixed charges, together with estimates of interest required on bonds proposed to be sold during the ensuing fiscal year, and statements of the city's authorized debt, and judgments outstanding at the time the budget estimates are submitted.

The mayor shall hold such public hearings on these budget estimates as he may deem necessary and may increase, decrease or reject any item contained in the estimates, excepting that he shall not increase any amount nor add any new item for personal services, materials, supplies or contractual services, but may add to the requested appropriations for any public improvement or capital expenditure; but he shall add to requested appropriations for any public improvement or capital expenditure only after such items have first been referred to the department of city planning and a report has been rendered thereon regarding conformity with the master plan. It shall be the duty of the department of city planning to render its reports in writing within thirty days after said referral. Failure of the department of city planning to render any such report in such time shall be deemed equivalent to a report. The budget estimates of expenditures for any utility, within the estimated revenues of such utility, shall not be increased by the mayor. [*Amended, 1935; 1947; 1948*]

See **Sullivan v. McKinley**, § 71; **Kennedy v. Ross**, § 61; **Villain v. Civil Service Commission**, § 141.

Capital Improvement Projects Budget

SECTION 69.1 Each officer, board, and commission shall annually, on or before the 30th day of November, file with the department of city planning a schedule describing all capital improvement projects which are proposed for inclusion in the budget for the ensuing fiscal year, together with a schedule of all capital improvement projects which in the opinion of such officer, board, or commission should be undertaken in the five succeeding years.

The department of city planning shall prepare and submit to the mayor, the board of supervisors, the controller, and each officer, board, or commission concerned, on or before the 20th of January, a report recommending a program of capital improvements based on the projects submitted for inclusion in the budget for the ensuing year, segregating in such report those projects which do not affect the master plan.

The report shall state whether each of the proposed capital improvement projects conforms to the master plan and if conformity does not exist the report shall give the particulars of the differences between the proposed capital improvement projects and the master plan; provided, however, that if any such capital improvement project does not conform, it shall be the duty of the department of city planning, prior to the submission of its related report, to confer with the officer, board, or commission concerned for the purpose of modifying either the project plan or the master plan in an endeavor to eliminate conflict as far as may be possible.

The report shall also include the recommendations of the department of city planning for additional capital improvement projects and for the advance planning and acquisition of land necessary for the development of all capital improvement projects.

Requests for supplemental appropriations for capital improvement projects, which projects have not been previously submitted to the department of city planning, shall be subject to all of the provisions herein contained except time, and the department of city planning shall report on each such proposal within thirty days from the date that each such proposal is filed with it.

The board of supervisors shall not appropriate any money for any capital improvement project which has not been referred to and reported on by the department of city planning in accordance with the provisions of this section.

Failure of the department of city planning to report within the time limits herein established shall constitute its concurrence. [*New section, 1948*]

Form of Budget Estimates

SECTION 70. The classification of proposed expenditures included in budget estimates shall be uniform for all departments, offices, bureaus, divisions and branches. The estimates shall include or be accompanied by the following information:

(1) An itemized estimate of the total expense of conducting each department, bureau, division, office or board for the ensuing fiscal year, together with a separate schedule of the proposed work program.

(2) Statements of the expenditures by items for the last complete fiscal year, and for the first six months of the current fiscal year, together with an estimate of probable expenditures by items for the last six months of the current fiscal year.

(3) The reasons for proposed increases or decreases, as compared with the current fiscal year, in any items of the proposed estimate.

(4) A schedule of positions and compensations showing any increases or decreases requested in the number of positions or rates of pay.

(5) Such other information as the mayor or the chief administrative officer may deem desirable.

See Sullivan v. McKinley, § 71.

Salary Deductions

SECTION 70.1. Whenever, in the judgment of the mayor and the board of supervisors, extraordinary economic conditions actually exist due to unemployment, fire, earthquake, flood or other calamity, which adversely affect the life, health and welfare of the citizens of the city and county or of any considerable portion thereof, the board of supervisors, by a three-fourths vote of all of its members, with the concurrence of the mayor, shall have power as follows, to-wit:

Sub. 1. To officially declare that a public emergency exists, and to fix the approximate anticipated time during which said emergency shall continue, provided that no such emergency shall be anticipated to continue beyond the end of the fiscal year during which the same is declared, unless such emergency be declared subsequent to the 1st day of January of said year, in which event the said emergency may be anticipated to continue until the end of the next succeeding fiscal year.

Sub. 2. To provide that while said emergency as declared shall continue to exist there shall be deducted from the gross salaries and compensations, exclusive of pension and retirement allowances, of each officer and employee of the City and County of San Francisco, including officers and employees of the board of education, not more than the respective amounts hereinafter set forth. Said deductions shall be made on the basis of the salary and compensation rate of said several officers and employees which were in effect during the calendar month immediately preceding the month during which said emergency was declared and not reduced by this section.

If said salary and compensation deductions are not reflected in the annual budget and appropriation ordinances, as set forth in subdivision 3 of this section, the amount of said deductions shall be used for the purpose of meeting or alleviating the emergency which has been declared, or to balance any deficiency existing in the general funds of the city arising by reason of the delinquency in the payment of taxes or other revenue as compared with the anticipated revenues over the same period. Provided that where salaries or compensations are paid out of bond funds, utility funds, or other trust funds, which are not provided from the revenues of the city, all deductions made shall revert to the respective funds from which said salaries or compensations are paid.

The maximum deductions from the salary or compensation of each officer or employee heretofore referred to shall be as follows, to-wit:

(a) From the salaries or compensation of officers or employees whose gross earnings exceed $100 per month and do not exceed $120 per month, three (3) per cent of the amount of the gross monthly earnings of each of said officers or employees.

(b) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $120 per month and do not exceed the sum of $150 per month, seven (7) per cent of the gross monthly earnings of each of said officers or employees.

(c) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $150 per month, and do not exceed the sum of $185 per month, ten (10) per cent of the gross monthly earnings of each of said officers or employees.

(d) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $185 per month, and do not exceed the sum of $275 per month, twelve and one-half (12½) per cent of the gross monthly earnings of each of said officers or employees.

(e) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $275 per month, and do not exceed the sum of $600 per month, fifteen (15) per cent of the gross monthly earnings of said officers or employees.

(f) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $600 per month and do not exceed the sum of $834 per month, eighteen (18) per cent of the gross monthly earnings of each of said officers or employees.

(g) From the salaries or compensation of all officers or employees whose gross earnings exceed the sum of $834 per month, twenty (20) per cent of the gross monthly earnings of each of said officers or employees.

(h) Provided, however, that no more than five and one-half (5½) per cent of the gross monthly earnings of per diem employees whose compensations are fixed on the basis of a five-day week shall be deducted from the salaries or earnings of any such employee.

Said deductions shall be made from said earnings or compensations in monthly or semi-monthly installments according to the time at which said salaries or compensations are paid, provided that where the earnings of any officer or employee are on an hourly or per diem basis deductions based on his total earnings for the month shall be deducted from the installment of said earnings paid for the last half of the month.

Sub. 3. Should any such emergency declared as herein provided be anticipated to continue into the next fiscal year following the one during which said emergency has been declared, the heads of all departments, the controller and the mayor, in preparing or submitting their respective annual budget estimates, shall base and estimate the net salaries and compensations to be paid to the officers and employees of their respective departments, or, in the case of the mayor and the controller, to be paid to the officers and employees of all departments, at amounts not to exceed the said salaries and compensations as reduced by the above-mentioned percentages on the above-mentioned salary and compensation rates, and the annual appropriation and salary ordinance shall fix said net salaries and compensation accordingly. When any emergency is declared after the annual budget is prepared or adopted, or after the annual appropriation or salary ordinances are enacted, and before the annual tax rate is fixed as provided by law, said budget and said appropriation and salary ordinances may be revised or reenacted, so that the deductions herein authorized to be made may be reflected in the amount of the tax levy.

Sub. 4. All of such deductions, whether made after the passing of the annual budget appropriation and salary ordinance or included therein, shall be deemed as temporary deductions from the salaries and compensations of said officers and employees, and shall be continued only during the anticipated period for which said emergency has been declared.

Sub. 5. In making the deductions herein provided for, the value of board, room and laundry or other maintenance furnished by the city and county to any officer or employee, when the same is made a part of his compensation by the civil service commission, shall be added to the monetary salary or compensation paid to said employee, and the amount of deductions from said salary or compensation shall be based on said monetary salary plus the value of said board, room and laundry or other maintenance, provided that no deduction shall be made for quarters furnished to any officer or member of the fire department.

Sub. 6. During the period that any emergency shall exist after being so determined as hereinbefore provided, the controller, with the approval of the mayor and the board of supervisors, may reallocate any unencumbered balance, or any part thereof, to the credit of any department or office exclusive of moneys or appropriations made or required to be made to any bond, bond interest, bond redemption, pension, utility, or trust fund, so that the same shall be available to meet the necessities of said emergency, irrespective as to whether the amount allocated to said department or office is fixed by this charter or is the result of a tax provided by said charter to be levied for said department. Should the period during which said emergency is anticipated to exist extend beyond the end of the fiscal year in which the same was declared to exist, the mayor, with the approval of the board of supervisors, may reduce the amount of any mandatory appropriation provided to be allocated to any office or department; or may reduce the amount of any tax provided by the charter to be levied for the support or maintenance of any department or office. Provided that no such deduction in appropriation, provided by this charter to be made to any department, or in the reallocation of funds, or reduction in the amount of said tax otherwise provided to be levied to produce funds for any department, shall be greater than is necessary to reflect the deductions in salaries provided in the section to be made by reason of said emergency.

The provisions of this section shall have precedence over conflicting provisions of this charter, but nothing herein contained shall adversely affect the rights of the officials and employees as set forth in section 71 of the charter, during the period when no public emergency exists. Contributions by the city and county and by members of the San Francisco City and County Employees' Retirement System to, and benefits, pension payments and allowances under said retirement system, shall be calculated on the basis of gross salaries and compensations of such members in the same manner and amounts as if no deductions from said gross salaries and compensations were made under this section.

Within ten days after this amendment becoming effective, the board of supervisors and the mayor shall officially declare, by resolution, that a public emergency exists in San Francisco within the meaning of this section; and that it is anticipated that said emergency will continue until the end of the fiscal year 1933-1934, and the deductions from salaries and compensations at the maximum rates herein provided shall be effective until the end of said fiscal year.

Should any emergency be declared pursuant to the provisions of this section, which will be effective after the end of the fiscal year 1933-1934, which, in the judgment of the board of supervisors, will necessitate deductions from the salaries of the officers and employees of the city and county, over and above the amounts herein provided for, the board of supervisors, by unanimous vote of all of its members, and with the approval of the mayor, may authorize a further deduction from the salaries and compensations of any of said officers and employees by increasing the maximum deductions in this section provided for, up to and including an amount not to exceed twenty-five (25) per cent of said respective salaries or compensations as the same existed before any deduction by authority of this section. [*New section, 1933*]

Employees of the Hetch Hetchy Project Department, working outside San Francisco on aqueduct and tunnel construction, were subject to the provisions of this section and to the resolution of the Board of Supervisors reducing the compensation of officers and employees as therein provided. **Snell v. Byington** (1934) 2 Cal. App. (2d) 127, 37 Pac. (2d) 734.

The fact that employees may be paid out of a bond fund or other special fund does not exclude them from the operation of this section. **Snell v. Byington** (1934) 2 Cal. App. (2d) 127, 37 Pac. (2d) 734.

Personal Service Estimates

SECTION 71. All increases in salaries or wages of officers and employees shall be determined at the time of the preparation of the annual budget estimates and the adoption of the annual budget and appropriation ordinances, and no such increase shall be effective prior to the fiscal year for which the budget is adopted. Salary and wage rates for classes of employments subject to salary standardization, as in this charter provided, shall be fixed in the manner provided in this charter. Salary and wage rates for classes of employment not subject to salary standardization, exclusive of compensations fixed by this charter, shall be recommended by the officer, board or commission having appointive power for such employments, and fixed by the budget and the annual salary ordinance. Pending the adoption of salary standards as in this charter provided, the salary and wage rates for positions subject to such standardization shall be as recommended by the officer, board or commission having appointing power for such positions and fixed by the budget and annual salary ordinance; provided that the minimum compensation for employees subject to the civil service provisions of this charter shall be not less than fifty cents (50c) per hour nor less than one hundred six dollars ($106) per month; and provided further that any compensation paid as of January 1, 1931, to an incumbent who legally held a position in the city and county service at that time, shall not be reduced so long as such incumbent legally holds such position. No compensation other than the minimum as in this section provided shall be increased so as to exceed the salary or wage paid for similar services of like character and for like service and working conditions in other city departments or in private employments, nor so as to exceed the rate fixed for such service or position in the proposed schedule of compensations issued by the civil service commission under date of April 9, 1930, except as such proposed schedule or compensation is amended as provided in this charter, or extended by the civil service commission to include classification not included therein. [*Amended, 1940*]

From §§ 71-73, 151, the power to fix compensation for officers (other than those whose compensation is expressly fixed in the Charter) and employees is in the Board of Supervisors. The Public Utilities Commission did not have authority to reduce the compensation of the manager of the airport employed prior to the effective date of the Charter. **Francis v. Leavy** (1933) 131 Cal. App. 619, 21 Pac. (2d) 979.

Where valid ordinances adopted before the effective date of the new Charter (Jan. 8. 1932) provided for a 5-day week and a 254-day year instead of the 270-day year on which the budget for that year was based, and where new salary ordinances subsequent to January 8, had not been adopted, a civil service employee was entitled to his salary based on the previous ordinances, although the new work week had the effect of increasing his wage per month. **King v. Leavy** (1932) 124 Cal. App. 422, 12 Pac. (2d) 661.

The proviso that "any compensation paid as of January 1, 1931 to an incumbent who legally held a position in the city and county service at that time, shall not be reduced so long as such incumbent legally holds such position," read in the light of the entire section, prohibits a reduction in wage rate, but not in the number of hours or days of employment. **Weigle v. San Francisco** (1937) 23 Cal. App. (2d) 274, 72 Pac. (2d) 902.

In the absence of the adoption of salary standards, as provided in the Charter, the wage of appointees is not that recommended by the appointing officer, but that recommended by him "and fixed by the budget and annual salary ordinance." Accordingly, the wage of an appointee would be that fixed for his position by the ordinance, unless he should be appointed to fill a vacancy in which case his wage would be that provided in the ordinance for such appointees. **Banks v. Civil Service Commission** (1937) 10 Cal. (2d) 435, 74 Pac. (2d) 741.

A salary ordinance may legally provide that in case no salary standardization ordinance has been adopted at the time a vacancy occurs, the rate paid shall be that fixed in a proposed schedule of compensations issued by the Civil Service Commission. **Banks v. Civil Service Commission** (1937) 10 Cal. (2d) 435, 74 Pac. (2d) 741.

A rate of wages for auto and car painters in the Municipal Railway Department could not be fixed in the annual salary ordinance different from and greater than that previously established in the budget estimate properly adopted for the same fiscal year, and this notwithstanding the appropriation made available to the municipal Railway Department may have been sufficient to pay the increased wage. **Sullivan v. McKinley** (1939) 14 Cal. (2d) 113, 92 Pac. (2d) 892.

See **Snell v. Byington**, § 70.1; **Dunn v. Civil Service Commission**, § 149.

Adoption of the Budget and the Appropriation Ordinance

SECTION 72. Not later than the 15th day of April in each year, the mayor shall transmit to the board of supervisors the consolidated budget estimates for all departments and offices of, and the proposed budget for, the city and county for the ensuing fiscal year, including a detailed estimate of all revenues of each department and an estimate of the amount required to meet bond interest, redemption and other fixed charges of the city and county, and the revenues applicable thereto. He shall, by message accompanying such proposed budget, comment upon the financial program incorporated therein, the important changes as compared with the previous budget, and bond issues, if any, as recommended by him.

The mayor shall submit to the board of supervisors, at the time that he submits said budget estimates and said proposed budget, a draft of the annual appropriation ordinance for the ensuing fiscal year, which shall be prepared by the controller. This shall be based on the proposed budget and shall be drafted to contain such provisions and detail as to furnish an adequate basis for fiscal and accounting control by the controller of each revenue and expenditure appropriation item for the ensuing fiscal year. Upon submission it shall be deemed to have been regularly introduced, and together with the proposed budget, shall be published as required for ordinances.

The detail of the proposed budget to be published shall be as follows:

1. Total cost for conducting each department, bureau, office, board or commission for the ensuing fiscal year, segregated according to basic objects of expenditure for each.

2. A detail schedule of positions and compensations, showing any increases or decreases in any department or office.

3. A detail schedule of items for capital outlay.

4. The aforementioned consolidated estimates and schedules shall also include by items contained therein the following information:

(a) Expenditures for the last complete fiscal year.

(b) Estimated expenditures for the current fiscal year.

(c) Proposed increases or decreases as compared with the budget allowances for the current fiscal year.

The board of supervisors shall provide printed copies of the mayor's budget message and proposed budget thus prepared, including comparative expenditures and revenues for the current and preceding fiscal years and other information transmitted therewith, for official use and public demand as requested.

The board of supervisors shall fix the date or dates, not less than five days after publication as in this section provided, for consideration of and public hearings on the proposed budget and proposed appropriation ordinance.

The board of supervisors may decrease or reject any item contained in the proposed budget, but shall not increase any amount or add any new item for personal services or materials, supplies, or contractual services, for any department, unless requested in writing so to do by the mayor, on the recommendation of the chief administrative officer, board, commission or elective officer, in charge of such department.

The board of supervisors may increase or insert appropriations for capital expenditures and public improvements, but shall do so only after such items have first been referred to the department of city planning and a report has been rendered thereon regarding conformity with the master plan. It shall be the duty of the department of city planning to render its reports in writing within thirty days after said referral. Failure of the department of city planning to render any such report in such time shall be deemed equivalent to a report.

The budget estimates of expenditures for any utility, within the estimated revenues of such utility, shall not be increased by the board of supervisors.

After public hearing, and not earlier than the 15th day of May, nor later than the 1st day of June, the board shall adopt the proposed budget as submitted or as amended and shall pass the necessary appropriation ordinance. If the appropriation ordinance as submitted by the mayor is amended by the supervisors, the appropriation ordinance shall be readvertised prior to final reading or passage, in the manner required for ordinances.

Any item in such appropriation ordinance except for bond interest, redemption or other fixed charges, may be vetoed in whole or in part by the mayor within ten days of receipt by him from the clerk of the board of supervisors of the ordinance as passed by the board, and the board of supervisors shall act on such veto not later than the 20th day of June.

The several items of expenditure appropriated in each annual appropriation ordinance, being based on estimated receipts, income or revenues which may not be fully realized, it shall be incumbent upon the controller to establish a schedule of allotments, monthly or quarterly as he may determine, under which the sums appropriated to the several departments shall be expended. The controller shall revise such revenue estimates monthly. If such revised estimates indicate a shortage the controller shall hold in reserve an equivalent amount of the corresponding expenditure appropriations set forth in any said annual appropriation ordinance until the collection of the amount as originally estimated is assured, and in all cases where it is provided by this charter that a specified or minimum tax shall be levied for any department the amount of the appropriation in any annual appropriation ordinance derived from taxes shall not exceed the amount actually produced by the levy made for said department. The controller in issuing warrants or in certifying contracts or purchase orders or other encumbrances, pursuant to section 86 of this charter, shall consider only the allotted portions of appropriation items to be available for encumbrance or expenditure and shall not approve the incurring of liability under any allotment in excess of the amount of such allotment. In case of emergency or unusual circumstance which could not be anticipated at the time of apportionment, an additional allotment for a period may be made on the recommendation of the department head and that of the chief administrative officer, board or commission and the approval of the controller. After the allotment schedule has been established or fixed, as heretofore provided, it shall be unlawful for any department or officer to expend or cause to be expended a sum greater than the amount set forth for the particular activity in the said allotment schedule so established unless an additional allotment is made, as herein provided.

Subject to the restrictions hereinbefore in this section included, the several amounts of estimated revenue and proposed expenditures contained in the annual appropriation ordinance as adopted by the board of supervisors shall be and become appropriated for the ensuing fiscal year to and for the several departments, bureaus, offices, utilities, boards or commissions, and for the purposes specified, and each department for which an expenditure appropriation has been made shall be authorized to use the money so appropriated for the purposes specified in the appropriation ordinance, and within the limits of the appropriation. The appropriation ordinance shall constitute the authority for the controller to set up the required revenue and expenditure accounts. Appropriation items for bond interest, bond redemption, fixed charges and other purposes not appropriated to a specific department shall be subject to the administration of and expenditure by the chief administrative officer for the respective purposes for which such appropriations are made. [*Amended, 1935; 1947; 1948*]

This section does not authorize an expenditure pursuant to a contract which otherwise is not in compliance with Charter requirements. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

See **Francis v. Leavy**, and **King v. Leavy**, § 71.

Annual Salary Ordinance

Section 73. The number and rates of compensation for all positions continued or created by the supervisors in adopting each annual budget, and each annual or supplemental appropriation ordinance, shall be established and enumerated in an ordinance continuing and creating positions in city and county departments and offices, and providing the rates of compensation therefor, which ordinance shall be passed or amended at the same time as the annual or supplemental appropriation ordinance is passed. Such ordinance shall be subdivided for each department or office and each organization subdivision thereof. The number of positions enumerated therein shall be segregated by classes according to the civil service classification of employments and the positions in any department or office under any such class shall not be listed individually or subdivided, except where necessary to show varying rates of pay for employments included in any such class. Rates of compensation enumerated shall be those established by salary standardization schedules, and shall not be listed for individuals or individual positions, except where the compensation of incumbents is higher than the rate fixed by salary standardization, which compensations shall not be reduced so long as the incumbents legally hold such positions. Any increase in the number of positions allowed for any department or office, and seniority or other compensation increases authorized as provided elsewhere in this charter for officers or employees, may be covered by amendment of the appropriate section of the ordinance herein referred to, provided that any such amendment shall include the entire section of such ordinance relating to the department or office in which the increase in number of positions or compensations shall occur. The said ordinance shall constitute the legal basis for check by the civil service commission or the controller as to the legality of the creation of any position in the city and county service and the rate of compensation fixed therefor.

See **Francis v. Leavy**, § 71.

BUDGET AND FISCAL PROCEDURE
(Continued)

Appropriations to Meet Utility Deficits

SECTION 74. In the event the public utilities commission and the mayor shall propose a budget for any utility which will exceed the estimated revenue of such utility, it shall require a vote of two-thirds of all members of the board of supervisors to approve such budget estimate and to appropriate the funds necessary to provide for the deficiency. No such budget of expenditures in excess of estimated revenues shall be so approved to provide for and include proposed expenditures for additions, betterments, extensions or other capital costs, which shall require financing by authorization and sale of bonds.

Departmental Revolving Funds

SECTION 75. The supervisors, on the recommendation of the mayor, in any proposed annual budget, may, in the approval of such budget and the annual appropriation ordinance therefor, establish departmental revolving funds to be used as petty cash funds for specific purposes and to be subject to settlement with, and audit by, the controller at least monthly, as provided in section 66. The mayor shall recommend and the supervisors shall establish revolving funds designated in this charter as the special election fund and the purchaser's revolving fund, and they shall respectively recommend and establish such revolving funds as may be necessary to facilitate the operation of each utility and institution of the city and county.

Appropriation Accounts—Designation of Funds

SECTION 76. Accounts shall be kept by the controller showing the amount of each class or item of revenue as estimated and appropriated in the annual appropriation ordinance, and the amounts collected. Accounts shall also be kept by the controller of each expense appropriation item authorized by the board of supervisors. Every warrant on the treasury shall state specifically by title and number the appropriation item against which such warrant is drawn.

Each such revenue and expense account shall show in detail the amount of the appropriation or appropriations made therefor by the supervisors, the amount drawn thereon, the amount of encumbrance for purchase orders, contracts or other obligations theretofore certified by the controller as against it, and the unencumbered balance to the credit thereof. This balance shall be the "unencumbered balance" as this term is used in this charter.

Transfers

Section 77. Upon written recommendation of the chief administrative officer, or board or commission for the use of which funds have been appropriated, and the approval of the mayor, the board of supervisors may transfer an unencumbered balance, or part thereof, of an appropriation made for the use of one department, to another. No such transfer shall be made of utility, bond, school, pension or trust funds, except by way of loans as in this charter provided. On request of a department head and approval by the chief administrative officer, board or commission, respectively, and on the authorization of the controller, funds appropriated for a specific purpose of such department which become surplus may be transferred and used for another specific purpose within the department; provided, however, that such surplus shall not be transferred to a capital improvement project unless such project shall have been previously approved in accordance with the provisions of sections 69, 69.1, 72 or 116.1 of this charter. The controller shall prescribe the method to be used in making payments for inter-departmental services. [*Amended, 1948*]

Under § 77, authorizing transfer and use of a surplus for another purpose within a department, and § 128.1, authorizing creation of a fund for reconstruction and replacements due to functional depreciation of utilities, a surplus of the municipal railway reconstruction and replacement fund may be expended for services of a civil engineer to make surveys and reports with respect to traffic and transit conditions, and extensions and improvements of the municipal railway. **San Francisco v. Boyd** (1941) 17 Cal (2d) 606, 110 Pac. (2d) 1036, distinguishing **Mobley v. Board of Public Works** (1919) 44 Cal. App. 167, 186, Pac. 412.

Tax Levy

Section 78. On or before the 15th day of September of each year, the board of supervisors by ordinance shall levy a tax, the estimated proceeds of which, together with the total amount of receipts and revenues estimated to be received from all sources, will be sufficient to meet all appropriations made by the annual appropriation ordinance.

Revenue to meet current annual interest and redemption or sinking fund for outstanding bonds shall always be provided out of the tax levy; provided, however, that to the extent to which funds are appropriated by the public utilities commission, and available for annual interest and redemption or sinking fund on bonds issued for acquisition, construction or extension of any utility, no tax shall be levied therefor.

The tax levy shall not exceed the rate of one dollar and sixty-five cents ($1.65) on each one hundred dollars ($100) valuation of the property assessed in and subject to taxation by the city and county, exclusive of the following items: (1) State taxes, and taxes for the interest and sinking fund on bonded indebtedness of the city and county; (2) the cost of constructing, maintaining and improving (a) schools, (b) libraries, which tax shall not be less than four cents on each one hundred dollars, (c) parks and squares, which tax shall be not less than ten cents on each one hundred dollars, (d) playgrounds, which tax shall be not less than seven cents on each one hundred dollars, (e) for the art commission for the purpose of maintaining a symphony orchestra one-half cent on each one hundred dollars of said assessed valuation, (f) streets, sewers and buildings; (3) the cost of (a) elections, (b) civil service, which tax shall not be less than one-half cent on each one hundred dollars, (c) obligations imposed by state legislative or constitutional enactment and (d) obligations imposed by vote of the people of the city and county. [*Amended, 1935*]

Emergency Reserve Fund

SECTION 79. The tax rate may be fixed by the board of supervisors so as to produce, by a specifically designated rate, as recommended by the mayor in any proposed annual budget and the appropriation ordinance therefor, an amount necessary for an emergency reserve fund, which fund is hereby created, for the purposes of meeting any emergency as defined in sections 16 or 25 of this charter. Appropriations from such emergency reserve fund shall be made only on the recommendation of the department head concerned, the approval of the chief administrative officer or the board or commission in charge of such department, the recommendation of the mayor to the board of supervisors that such appropriation be made, and the vote of three-fourths of the board of supervisors.

The balance in said emergency reserve fund at the end of any fiscal year shall be maintained and carried forward in said fund. The annual appropriation for said fund and the annual tax rate therefor shall not exceed one per centum of the amount of the levy required to meet all other expense appropriations unless and until the accumulated and unencumbered balance in said fund shall amount to a sum not to exceed three per centum of the tax levy required to meet all other expense appropriations in the then current fiscal year. The board of supervisors, on the recommendation of the mayor, may make appropriations to and may levy taxes for said emergency reserve fund in excess of said three per centum of the tax levy for all other purposes. [*Amended, 1933*]

Fund Balances—Supplemental Appropriations

SECTION 80. Unused and unencumbered appropriations or unencumbered balances existing at the close of any fiscal year in revenue or expense appropriations of the city and county for any such fiscal year, including such balances in revenue and expense appropriations provided under the provisions of section 78 of this charter for libraries, parks and squares, playgrounds and civil service in any such fiscal year, but exclusive of revenue or money required by law to be held in school, bond, bond interest, bond redemption, pension, trust, utility or other specific funds, or to be devoted exclusively to specified purposes other than annual appropriations, and together with revenues collected or accruing from any source during any such fiscal year, in excess of the estimated revenue from such source as shown by the annual budget and the appropriation ordinance for such fiscal year, shall be transferred by the controller, at the closing of such fiscal year, to a ''cash reserve fund'' which is hereby created and which may be used only in the manner authorized by section 81 of this charter; provided, however, that when the balance in said cash reserve fund shall equal ten (10) per centum of the current or the last preceding tax levy no such transfer shall be made by the controller except on the recommendation of said controller, the approval of the mayor and the authorization of the board of supervisors, by majority vote.

Such unused and unencumbered appropriations, balance and revenue collections in excess of revenue estimates, as hereinbefore in this section defined, when not transferred to the cash reserve fund as hereinbefore in this section required or authorized, shall be held as surplus.

Such surplus shall be taken into account as revenue of the ensuing fiscal year; provided, however, that any such surplus created in the fiscal year 1933-34 or created or existing in any subsequent fiscal year may be appropriated by the board of supervisors at the last meeting of such board in any month, by means of an ordinance designated as a supplemental appropriation ordinance, on the recommendation of the chief administrative officer, or any board, commission or elective officer, respectively, and the approval and submission by the mayor of a supplemental budget estimate or request, in the same manner and subject to the same conditions, except time, as provided in this charter for the submission and approval of the annual budget and the appropriation ordinance. [*Amended, 1933*]

Cash Reserve Fund and Temporary Loans
Tax Anticipation Notes

SECTION 81. The board of supervisors, by annual tax levy, may gradually build up the cash reserve fund authorized and created by the provisions of section 80 of this charter. Said fund shall be used exclusively (1) for the payment in any fiscal year of legally budgeted expenditures for such year in anticipation of the collection, after the close of such fiscal year, of legally collectible taxes and other revenues, as set forth in the budget and the appropriation ordinance for such fiscal year, and (2) for paying that portion of the authorized expenses of the city and county for any fiscal year, which, as certified to said board by the controller, becomes due and payable and must be paid prior to the receipt of tax payments for such fiscal year; provided, that such cash reserve fund shall not at any time exceed the estimated expenditures for the first five months of the then current fiscal year, less the amount of estimated revenues and receipts from sources other than tax rate revenues.

In the event that funds are not available in such a cash reserve fund to meet authorized expenditures of any fiscal year, the board of supervisors, on the recommendation of the controller and the mayor, and the written approval of the officer, board or commission responsible for the management and control of the fund from which it is proposed that the temporarily idle balances be transferred or loaned may, by ordinance, authorize the treasurer to make temporary transfers or loans for specified periods of idle unencumbered balances in any fund in his custody, except a pension fund, at not less than the then current rate of interest paid by the banks to the city and county on city and county funds deposited with such banks. Such approval by the officer, board or commission concerned shall specify that the amount proposed to be transferred or loaned from such fund will not be needed for the purpose of such fund prior to the date specified for its return. The fund from which such transfer or loan is made shall be charged or encumbered with the amount of such transfer or loan and such amount shall not be considered as available in such fund for any other appropriation or encumbrance for which any expenditures or payments must be made prior to the date on which the transfer or loan is repaid. Any transfer or loan made as herein authorized during the first half of any fiscal year shall be repaid prior to the 1st day of January of said year, and any transfer or loan made during the remaining one-half of said fiscal year shall be repaid prior to the 15th day of May of said year. Such loans shall be secured by and made solely in anticipation of the collection of taxes levied or to be levied for the current fiscal year, and such loans shall constitute the first demand on and shall be repaid from the first tax collections for such current fiscal year; provided, however, that tax anticipation loans made as hereinafter in this section authorized, shall constitute a prior lien on said taxes levied or to be levied or collected.

When funds shall be needed for the immediate requirements of the city and county in any fiscal year in accordance with appropriations made as authorized by this charter for such fiscal year, which payments may be made in advance of the receipt of income from such fiscal year, and when funds therefor cannot be made available as hereinbefore in this section authorized, the board of supervisors on the recommendation of the controller and the approval of such recommendation by the mayor, shall have power to borrow money on notes or other evidences of indebtedness on behalf of the city and county. Said power shall be exercised by ordinance or ordinances authorizing the borrowing of said money and the execution of said notes or other evidences of indebtedness. The aggregate amount of such notes or other evidences of indebtedness outstanding and unpaid at any one time during any part of the fiscal year in which said borrowing is made shall not be in excess of 25 per cent of the estimated aggregate amount of all taxes actually levied for such fiscal year. All such notes or other evidences of indebtedness shall be offered at public sale by the board of supervisors after not less than two days of advertising, not less than three days after the last day on which such advertising is published. Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the city and county; provided, however, that the rate of interest to be paid shall not exceed the sum of six (6) per centum per annum, and full authority is hereby given to said board of supervisors to fix, by resolution, the rate of interest on said notes or other evidences of indebtedness and the times and places where the principal sum of said notes or other evidences of indebtedness shall be paid. The principal amount of said notes or other evidences of indebtedness together with the interest thereon, issued and delivered under authority of this section shall be payable exclusively out of the taxes levied and collected by said city and county for the fiscal year during which the same are issued, and shall constitute a first lien and charge against the taxes collected during the half of the fiscal year in which said money shall be borrowed and shall be repaid from the first moneys received from said taxes; and the amount of taxes so levied and collected shall be applied to the payment of said notes or other evidences of indebtedness before any part thereof is used for any other purpose; provided, however, that taxes levied for the payment of principal of, or interest on, any bonded indebtedness of said city and county now outstanding or hereafter created shall be applied to the purpose for which such taxes were levied, unless the money borrowed by such notes or other evidences of indebtedness issued against such tax levies is in fact applied to the payment of the principal and interest of such bonded indebtedness. If at the time said notes or other evidences of indebtedness, or any of them, become due and payable the funds in the city treasury available for the payment thereof shall be insufficient for the payment in full of all of said notes or other evidences of indebtedness then outstanding such funds shall be applied pro rata to the payment of the principal and interest of all of the notes or other evidences of indebtedness then issued and outstanding without preference or priority of any one note over any other by reason of prior issuance, or otherwise. Any of said notes or other evidences of indebtedness not paid prior to June 30 of the fiscal year during which the same are issued shall, nevertheless, be paid out of moneys received from the taxes of the said fiscal year, irrespective of the date of the receipt thereof, it being the intent and purpose of this section to provide for the payment of all notes or other evidences of indebtedness issued under authority of this section out of the taxes levied for the fiscal year during which said notes or other evidences of indebtedness are issued irrespective of the actual date of the collection of said taxes.

The board of supervisors shall have full power and authority to provide for the form of all notes or other evidences of indebtedness issued by authority of this section, as well as to fix the time and place for the payment of both the principal amount of said notes or other evidences of indebtedness and the interest to become due thereon; provided that all notes or other evidences of indebtedness issued for money borrowed during the first half of any fiscal year shall be payable not later than December 31 of said year; and all notes or other evidences of indebtedness issued for money borrowed during the second half of any fiscal year shall be payable not later than May 15 of such year, it being the intent and purpose of this section that the borrowing of money under authority hereof shall be solely for the purpose of anticipating receipt of income. The mayor, in preparing the consolidated budget estimate as provided by this charter, shall include therein a separate amount sufficient to meet the interest to be paid on any moneys borrowed under authority of this section. [*Amended, 1933; 1937*]

Receipt, Custody and Deposit of Funds, Investment of Trust Funds

SECTION 82. Disbursement of all public or other funds in the custody of the treasurer, except reimbursement transfers between departments as provided in section 77, shall be made only on warrants drawn by the controller. All moneys and checks received by any officer or employee of the city and county for, or in connection with the business of, the city and county, shall be paid or delivered into the treasury not later than the next business day after its receipt, and shall be receipted for by the treasurer. Daily statements of such receipts and deposits shall be prepared and transmitted to the controller and the treasurer. All pension funds and securities shall be deposited with the treasurer.

The deposit of public funds shall be governed by state law enacted under authority of Article XI, Sections 16 and 16½ of the Constitution.

The treasurer shall not be responsible for any loss of public moneys resulting from a deposit thereof made in accordance with the provisions of this section. The treasurer shall be responsible for the safekeeping of all securities deposited by banks. The transfer of money for deposits shall be at the expense of the depositary.

Funds received as gifts for a specific purpose, by donation, bequest, legacy or otherwise, and held in trust for the benefit of the city and county may, with the approval of the controller, be invested by the officer, board or commission charged with control and administration of such trust or funds in securities legal for savings banks.

All interest on moneys deposited shall accrue to the benefit of the city and county, except that interest derived from the deposit of any bond, utility, pension, trust or other fund created for a specific purpose shall accrue to such fund. Public money, other than that of the city and county, coming into the hands of the treasurer shall be kept as provided by law. [*Amended, 1949*]

Custody of Moneys and Securities

SECTION 83. The supervisors shall by ordinance provide for the safe custody of all money and property in the possession or under the control of the treasurer. Pending the adoption of such ordinance, moneys and securities in possession of the treasurer shall be deposited in a joint custody safe with two combination locks, both of which much be unlocked to open the safe. The combination of one lock shall be known only to the treasurer and one deputy in his office selected by him, and the combination of the other shall be known only to the controller and such assistant in his office as shall be selected by him. The joint custody safe shall be opened only in the presence of the treasurer and either the controller or the assistant in his office having knowledge of the combination, or in the presence of the controller and either the treasurer or the assistant in his office having knowledge of the combination, and either the controller or the said assistant shall attend, at the request of the treasurer, to open the joint custody safe.

A complete record of moneys and securities on deposit in the joint custody safe shall be kept in a joint custody account and the record of any withdrawals shall be verified by the initials of the controller or his said assistant and the treasurer or his said assistant. Money required for current daily payments to be made from the treasury may be withdrawn from the joint custody safe and deposited in another safe, and the balance thereof shall be verified daily at the close of business hours by the treasurer and the controller.

Clearing House Representative

SECTION 84. The board of supervisors, by ordinance, upon the recommendation of the mayor, the treasurer and the controller, may designate any bank qualified to be a depositary under this charter to be the clearing house representative of the city and county, and the city and county may pay a reasonable fee for the service thereof. The necessary procedure shall be provided by ordinance.

Expenditures and Payment of Claims

SECTION 85. No money shall be drawn from the treasury of the city and county, nor shall any obligation for the expenditure of any money be incurred except in pursuance of appropriations or transfers made as in this charter provided.

All salaries and wages shall be payable semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this charter.

All warrants shall be drawn by the controller, in payment of claims, prepared and signed by the responsible official, for services, supplies and other obligations against the city and county, supported by proper invoices, bills and other necessary data.

The controller shall audit such claims. If he finds the same to be correct and proper in all particulars, and clearly within the purposes for which the appropriation item to which it is charged was made, and that there is an adequate balance in such appropriation item to meet the payment, he shall draw and approve the warrant therefor.

If all or any portion of the claim is not correct, or if all proceedings required incidental to such payment have not been followed, the controller may approve such part of such claim as he shall find correct and draw the warrant therefor, or he may return the claim to the department concerned with his disapproval.

Prior to his drawing any warrant therefor, the controller may, in addition to any other inspection required by any other official, make such investigation and inspection as he deems necessary as to the quality, quantity and condition of services, material, supplies or equipment received by any officer or department for which payment is to be made by such warrant. If, in his opinion, any claim is not legal, he shall withhold approval of the same and immediately return such claim, together with a statement of his action thereon and reason therefor, to the responsible official, or transmit the same to the mayor for instructions. No warrant shall be drawn in payment of a claim against a fund in which there is an insufficient unencumbered balance for the payment thereof. Such claims, if legal, shall be registered by the controller in the order of receipt by him, and shall be paid in such order as moneys to cover the same become available in the proper fund.

Limitation on Incurrence of Liabilities

SECTION 86. No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the board of supervisors unless the controller first certify to such board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditure will be available in the treasury in sufficient amount to meet the same as it becomes due.

No obligation involving the expenditure of money shall be incurred or authorized by any officer, employee, board or commission of the city and county unless the controller first certify that there is a valid appropriation from which the expenditure may be made, and that sufficient unencumbered funds are available in the treasury to the credit of such appropriation to pay the amount of such expenditure when it becomes due and payable.

Every officer who shall approve, allow or pay any demand on the treasury not authorized by law, ordinance or this charter, shall be liable to the city and county individually and on his official bond for the amount of the demand so illegally approved, allowed or paid.

Each such certification shall be immediately recorded by the controller. Each sum so recorded shall be an encumbrance for the purpose certified until such obligation is fulfilled, cancelled or discharged, or until the ordinance or resolution is repealed by the board of supervisors.

All obligations incurred, all ordinances passed, and resolutions and orders adopted, contrary to the provisions of this section, shall be void and any claim or demand against the city and county based thereon shall be invalid.

To promise the payment of money upon performance of a contract out of an unincumbered and unexpended fund set aside for such expenditure is not to contract a liability in violation of the Charter. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Unapproved Agreement for Repairs.—An agreement between the City and plaintiff contractor by which the contractor was to repair landslide damages to land over which it was constructing a pipe line for the City was void and unenforceable where it was not approved by the City Controller. **Williams Bros. & Haas v. San Francisco** (1942) 53 Cal. App. (2d) 415, 128 Pac. (2d) 56, citing **Zottman v. San Francisco** (1862) 20 Cal. 96, 81 Am. Dec. 96; **Gamewell F.A.T. Co. v. Los Angeles** (1919) 45 Cal. App. 149, 187 Pac. 163.

A recovery in quantum meruit cannot be had on a claim based on an agreement between the City and plaintiff contractor for the repair of damages to land, where the agreement was void because not approved by the City Controller. **Williams Bros. & Haas v. San Francisco** (1942) 53 Cal. App. (2d) 415, 128 Pac. (2d) 415.

Limitation on Claims and Damages

SECTION 87. All claims for damages against the city and county must be presented to the controller within sixty days after the occurrence from which it is claimed the damages have arisen. Such claims must be verified by the oath of the claimant and must contain the name and address of the claimant, the date and place of the occurrence or injury for which damages are claimed, the nature and amount of said injuries or damages and the items making up said amount; otherwise there shall be no recovery on any such claim or by reason of the said occurrence for which damages are claimed. [*Amended, 1935*]

The language of this section is plain, requires no interpretation or construction and applies to all claims for damages against the City. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109.

A statement of claim or demand as required by this section is a condition precedent to an action for damages. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109.

The Charter may not fix a shorter period for filing claims based on liability for defective streets, etc., under the Public Liability Act (Stats. 1923, p. 675, Deering's Gen. Laws, Act 5619), as that is a matter of statewide concern. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

The Charter section requiring the filing of claims with the Controller within 60 days after the occurrence giving rise to liability is ineffective as against the Public Liability Act (Stats. 1923, p. 675, Stats. 1931, p. 2475, Deering's Gen Laws, Act 5619), even though the Charter provision in its existing form was approved at a later date, since the filing of claims in such case is a matter of statewide concern. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

The time and place for filing of claims predicated on the statutory liability under the Public Liability Act (Stats. 1923, p. 675, Stats. 1931, 1475, Deering's Gen. Law, Act 5619) are matters of statewide concern, and the filing of a claim with the Controller, as provided in this section, instead of the secretary or clerk of the legislative board, as provided in the statute is ineffective. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

Charter provisions relating to proof and presentment of claims do not apply to persons making levies as authorized by a state statute, such as a levy made under Code Civ. Proc., § 710. **Department of Water & Power v. Inyo Chemical Co.** (1940) 16 Cal. (2d) 744, 108 Pac. (2d) 410.

Breach of Dam Elevation Contract.—An action for damages for breach of a contract for elevation by plaintiff of a municipal dam was properly dismissed where the claim for damages was not presented to the Comptroller within sixty days as required by this section. **San Francisco v. Transbay Construction Co.** (1943) 134 Fed. (2d) 468.

Claim for Repair of Land Slide Damage.—A contractor cannot recover damages for breach of an agreement with the City to repair land slide damage to land over which the contractor was constructing a pipe line for the City where such an agreement was unapproved by the City Controller and no claim for such damages was filed as required by this section. **Williams Bros. & Haas v. San Francisco** (1942) 53 Cal. App. (2d) 415, 128 Pac. (2d) 56.

Claim for Personal Injuries.—An action for damages for personal injuries sustained by a passenger on a street car owned and operated by the City is barred where the passenger fails to file with the Controller a verified claim for such damages within sixty days after receiving the injuries. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109.

Plaintiff's action for personal injuries suffered when struck by a City bus was not barred by his failure to file his claim against the City within sixty days after the accident as required by this section, where the injury which was the basis of his cause of action rendered him mentally incapable of filing the claim within the required time and he filed it as soon as he regained the mental ability to do so. **Schulstad v. San Francisco** (1946) 74 Cal. App. (2d) 105, 168 Pac. (2d) 68, (in which the court refused to follow **Johnson v. Glendale** (1936) 12 Cal. App. (2d) 389, 55 Pac. (2d) 580 and **Wicklund v. Plymouth E. School Dist.** (1940) 37 Cal. App. (2d) 252, 99 Pac. (2d) 314.

A complaint which fails to plead a demand made in accordance with the requirements of the Charter does not state a cause of action. **Crim v. San Francisco** (1907) 152 Cal. 279, 281, 92 Pac. 640. See also **Kline v. San Francisco Unified School Dist.** (1940) 40 Cal. App. (2d) 174, 104 Pac. (2d) 661.

Limitation on Claims for Damages.—The provision precluding recovery unless claims for damages be presented within 60 days after the occurrence applies to a claim for injuries to a passenger on a municipal street car. **Kornahrens v. San Francisco** (1948) 87 Cal. App. (2d) (87 ACA 233) 196 Pac. (2d) 140.

A claim for injuries sustained by a street car passenger filed with the Controller cannot be sustained as a timely filing of a county claim under Gov. Code, §§ 29700-29705, since the operation of a street railway is not a county or government function, and since claims against counties must be filed with the Board of Supervisors. **Kornahrens v. San Francisco** (1948) 87 Cal. App. (2d) (87 ACA 233) 196 Pac. (2d) 140.

A contention that a claim arising out of injuries sustained by a street car passenger was filed within the time limited by general law cannot be sustained where the claim was filed with the Controller who is not designated in any statute as the officer with whom claims are to be filed, and where there is no attempt to plead compliance with any such acts. **Kornahrens v. San Francisco** (1948) 87 Cal. App. (2d) (87 ACA 233) 196 Pac. (2d) 140.

PURCHASING

Purchase and Sale of Material, Supplies and Equipment

SECTION 88. The purchaser of supplies shall purchase all materials, supplies and equipment of every kind and nature, and enter into agreements for all contractual services required by the several departments and offices of the city and county, except as in this section otherwise provided. Purchases of books, magazines and periodicals for the library departments, works of art for museums and other articles or things of unusual character as to the purchasing thereof, may, on the recommendation of a department head and the approval of the purchaser, be purchased directly by said department head.

Purchases for construction operations, or for any operations conducted outside the boundaries of the city and county may, on the recommendation of the department head in charge thereof and the approval of the purchaser of supplies, be made by the department head. All such purchases made by officials of departments other than the purchasing department shall be made in accordance with regulations established by the purchaser of supplies. The purchaser of supplies shall have authority to exchange used materials, supplies, and equipment to the advantage of the city and county, advertise for bids, and to sell personal property belonging to the city and county on the recommendation of a department head that such articles are unfit for use.

All purchases shall be by written purchase order or written contract. All purchases in excess of one thousand dollars ($1,000) shall be by written contract, provided, however, that on the recommendation of the department head, in case of an emergency actually existing, the purchaser of supplies, with the approval of the chief administrative officer, may make such purchases in the open market on the basis of informal bids. At least three bids or quotations shall be secured on open market purchases and a permanent record of all such quotations shall be kept. All contracts and purchase orders in excess of two thousand dollars ($2,000) for material, supplies or equipment shall require the signature of the chief administrative officer in addition to the signature of the purchaser of supplies. The purchaser of supplies shall not enter into any contract or issue any purchase order unless the controller shall certify thereon that sufficient unencumbered balances are available in the proper fund to meet the payments under such purchase order or contract as these become due.

The purchaser of supplies shall establish specifications and tests to cover all recurring purchases of material, supplies and equipment. He shall, as far as is practicable, standardize materials, supplies and equipment according to the use to which they are to be put, when two or more types, brands or kinds are specified or requested by individual departments.

Purchases of equipment shall be made in accordance with specifications furnished by the department requiring such equipment in case the use of such equipment is peculiar to such department. For patented or proprietary articles sold by brand name, the purchaser may require each department requisitioning same by such brand name, to furnish specifications of the article requisitioned and may advertise for bids on the basis of such specifications, under conditions permitting manufacturers of or dealers in other articles made and sold for the same purpose to bid on such specifications or on the specifications of their own product. If the purchaser of supplies recommends the acceptance of the lowest or best bid, stating his reasons in writing therefor, and if the department head concerned recommends the acceptance of any other bid on such proprietary articles, stating his reasons in writing therefor, the award shall be determined by the controller.

The purchaser of supplies shall require departments to make adequate inspection of all purchases, and shall make such other inspection as he deems necessary. He shall direct the rejection of all articles which may be below standards, specifications or samples furnished. He shall not approve any bill or voucher for articles not in conformity with specifications, or which are at variance with any contract.

He shall have charge of central storerooms and warehouses of the city and county. He shall also have charge of a central garage and shop for the repair of city and county equipment. All garages and shops heretofore maintained by departments for the construction, maintenance, and repair of departmental supplies and equipment, and the personnel assigned thereto, excepting the shop and personnel for fire alarm, police telegraph and traffic signal manufacture and repair operated by the department of electricity, are hereby transferred to said central garage and shop.

He shall, under the supervision of the controller, maintain an inventory of all material, supplies and equipment purchased for and in use in all departments and offices of the city and county. He shall be responsible for the periodic check of such property, and in case of loss or damage deemed by him to be due to negligence, he shall report thereon to the mayor, the chief administrative officer and the controller. He shall have authority to require the transfer of surplus property in any department to stores or to other departments.

Purchaser of Supplies to Purchase Surplus Commodities

SECTION 88.1. Notwithstanding any other provision of the charter, the purchaser of supplies, with the approval of the chief administrative officer, may purchase any commodity either from the government of the United States or from the State of California without advertising for bids for said commodity, irrespective as to the cost thereof, and no written contract need be entered into with the government of the United States or with the State of California for the purchase of said commodity. Before any such purchase is made the controller shall certify as to the availability of funds to pay the purchase price of said commodity. [*New section, 1946*]

Purchasing Procedure

SECTION 89. All purchase orders and contracts shall be based on written requisitions, or, for materials or supplies in common use in the various departments, on the purchaser's records of average use by all departments, when approved by the chief administrative officer. The purchaser of supplies shall approve all bills or vouchers for materials, supplies, equipment, and contractual services before the controller shall draw and approve warrants therefor. All contracts for the purchase of materials, supplies and equipment shall be made after inviting sealed bids by publication. All sealed bids received shall be kept on file. When an award of contract is made, notice that the same has been made shall be given by one publication, and any interested person may examine the bids and records at the purchaser's office.

Purchaser's Revolving Fund

SECTION 90. Appropriations for material, supplies, and equipment shall be segregated in each annual appropriation ordinance for each department or office. Any part of each such fund or appropriation may, on the recommendation of the purchaser of supplies and the approval of the controller, be transferred to or made available in the purchaser's revolving fund. Warrants shall be drawn against such fund by the controller on demand of the purchaser for the payment of bills on which discount for prompt payment may be secured, or for advantageous cash purchasing, under favorable or emergency market conditions, of materials or supplies for future departmental requisition and use. Discounts obtained by the use of the purchaser's revolving fund may be accumulated therein and the supervisors may make annual appropriations to such fund until a sufficient sum, as determined by the controller, is accumulated to meet the average purchasing and discount payment requirements of the city and county.

PURCHASING
(Continued)

Purchase, Lease and Sale of Real Property and Improvements

SECTION 91. The director of property shall be the head of the department of property. He shall have charge of the purchase of real property and improvements required for all city and county purposes, and the sale and lease of real property and improvements thereon owned by the city and county, except as otherwise provided by this charter. In the acquisition of property required for street opening, widening or other public improvements, the director of property shall make preliminary appraisals of the value of the property sought to be condemned or otherwise acquired, and report thereon to the responsible officer. It shall be his duty, in addition, to assist in such proceedings on the request of the responsible officer.

He shall have charge of the management of the exposition auditorium.

Each department authorized by the approval of bond issues or by annual or supplemental appropriation ordinances to purchase or lease property or improvements needed for the purposes of such department shall make such purchases or leases through the director of property. He shall make a preliminary valuation of the property to be acquired or leased and report the same to the department requiring such property. For such purposes he may employ independent appraisers. He shall conduct negotiations with the owner or owners thereof, at the conclusion of which he shall report the terms on which such sale or lease may be concluded, together with his recommendations thereon. The head of the department concerned may report to the board of supervisors and recommend acceptance or that proceedings in eminent domain be instituted for the acquisition of such property.

Sale of Property

SECTION 92. Any real property owned by the city and county, excepting lands for parks and squares, may be sold on the recommendation of the officer, board or commission in charge of the department responsible for the administration of such property. When the board of supervisors, by ordinance, may authorize such sale and determine that the public interest or necessity demands, or will not be inconvenienced by such sale, the director of property shall make a preliminary appraisal of the value of such property. The director of property shall advertise by publication the time and place of such proposed sale. He shall forthwith report to the department head concerned and to the supervisors the amount of any and all tenders received by him. The supervisors may authorize the acceptance of the highest and best tender, or they may, by ordinance, direct that such property be sold at public auction, date of which shall be fixed in the ordinance. No sale other than a sale at public auction shall be authorized by the supervisors unless the sum offered shall be at least ninety per cent of the preliminary appraisal of such property hereinbefore referred to.

The proceeds of the sale of any property under the control of a department shall be applied by the supervisors to the purchase of additional land for the use of such department if required thereby. Otherwise such proceeds shall be applied to the purchase of additional real property for any city and county purpose, or, if not required therefor, may be appropriated by the board of supervisors for capital improvements; provided, however, that the proceeds of the sale of any property acquired for the use of any utility, bond, special or trust fund shall revert to the related utility, bond, special or trust fund.

The director of property may, in lieu of sale, arrange for the trading of any real property proposed to be sold for other property required by the department in charge thereof, on the recommendation of the officer, board or commission in charge of such property and the authorization, by ordinance, of the board of supervisors. [*Amended, 1951*]

Lease of City Property

SECTION 93. When the head of any department in charge of real property shall report to the board of supervisors that certain land is not required for the purposes of the department, the board of supervisors, by ordinance, may authorize the lease of such property. The director of property shall arrange for such lease for a period not to exceed twenty years, to the highest responsible bidder at the highest monthly rent. The director of property shall collect rents due under such lease.

The public utilities commission may provide, by resolution, that agricultural or other lands used and useful for water department purposes and at the same time available for leasing or rental for agricultural or other purposes shall be subject to lease and administration by the operating forces of the water department, and further, the public utilities commission may provide, by resolution, that lands now devoted to airport purposes or lands that may hereafter be acquired and devoted to airport purposes may be leased or rented for a period not to exceed forty years, and the director of property shall arrange for such lease to the highest responsible bidder at the highest monthly or annual rent, and thereafter the administration of any and all such leases shall be by the public utilities commission; provided, however, that no such lease shall be made to any other public utility without the approval of the board of supervisors by two-thirds vote thereof. [*Amended, 1946*]

§ 93. Lease of City Property

A municipal charter provision is subject to the same rules of interpretation as a statute. **Laurent v. City & County of S. F.** (1950) 99 ACA 839, ... Pac. (2d) ....

Under a municipal charter providing that a municipal commission might provide for the leasing of public lands, such leases to be arranged by the director of property by taking of bids, where neither the charter nor any municipal ordinance enacted any procedure with reference to such leasing, it was not improper to insert a clause in the call making the bids subject to confirmation by the commission, and where that body rejected all bids, it could not be compelled by writ of mandate to accept the highest bid. **Laurent v. City & County of S. F.** (1950) 99 ACA 839, ... Pac. (2d) ....

Records of Real Property

SECTION 94. The director of property shall maintain complete records and maps of all real property owned by the city, which shall show the purchase price, if known, and the department in charge of each parcel, with reference to deeds or grants establishing the city's title.

He shall annually report to the mayor, the controller, the chief administrative officer, and the supervisors the estimated value of each parcel and improvement. He shall make recommendations to the mayor and chief administrative officer relative to the advantageous use, disposition, or sale of real property not in use.

CONTRACTS

Public Works and Purchasing Contracts

SECTION 95. The construction, reconstruction or repair of public buildings, streets, utilities or other public works or improvements, and the purchasing of supplies, materials and equipment, when the expenditure involved in each case shall exceed the sum of two thousand dollars ($2,000) shall be done by contract, except as otherwise provided by this charter. It shall constitute official misconduct to split or divide any public work or improvement or purchase into two or more units for the purpose of evading the contract provisions of this section. In an emergency, provided an actual emergency be declared by the board of supervisors to exist, and when authorized by resolution of said board, any public work or improvement may be executed in the most expeditious manner. Notwithstanding any other provision in this section or this charter contained, upon the approval of the chief administrative officer declaring the work to be emergency in character, there may be expended by the department of public works the sum not to exceed five hundred dollars ($500) for new construction of any type in or upon unimproved or unaccepted streets.

Any public work or improvement estimated to cost less than two thousand dollars ($2,000) may be performed under contract or written order or by the employment of the necessary labor and purchase of the necessary materials and supplies directly by the city and county. Any public work or improvement executed by the city, other than routine repair work, shall be authorized by the chief administrative officer or by the heads or departments not under the chief administrative officer, only after detailed estimates have been prepared and submitted by the head of the department concerned. There shall be separate accounting for each work or improvement so executed, which accounting shall include all direct, indirect and supervisory elements of cost chargeable to such work or improvement, and each cost accounting shall be reported to the chief administrative officer, or to the mayor when such work shall have been performed by departments not under the chief administrative officer. All such accounts shall be reported to the controller. Any public work or improvement costing less than two thousand dollars ($2,000) and not performed by the use of city and county labor, materials, and supplies shall, if not performed under contract, be covered by written order or agreement which shall be based on not less than three bids, notice of which shall be given by three days' posting. Records of such bids shall be kept by the department.

When the expenditure for any public work or improvement shall exceed the sum of two thousand dollars ($2,000), the same shall be done by contract, except as otherwise provided in this charter. The head of the department in charge of or responsible for the work for which a contract is to be let, or the purchaser of supplies in the case of purchases of materials, supplies and equipment, shall let such contract to the lowest reliable and responsible bidder not less than ten days after advertising by publication for two consecutive days for sealed proposals for the work, improvement or purchase contemplated. Each such advertisement shall contain the reservation of the right to reject any and all bids. The officer responsible for the awarding of any such contract shall require from all bidders information concerning their experience and financial qualifications, as provided by general law relative to such investigations authorized by departments of public works.

The purchaser of supplies with the approval of the chief administrative officer, or the department head concerned, with the approval of the board or commission to which he is responsible, may reject any and all bids and readvertise for bids.

The department head or the purchaser of supplies, as the case may be, shall have power to sign such contract for the estimated expenditures thereunder not in excess of two thousand dollars ($2,000). Any contract involving the expenditure of over two thousand dollars ($2,000), if for the purchase of materials, supplies or equipment, shall require the joint approval of the purchaser of supplies and the chief administrative officer. If such contract is for any public work or improvement, it shall require the joint approval of the department head and the chief administrative officer relative to departments under his jurisdiction, or the signature of the department head and the approval by resolution of the board or commission concerned for departments not under the chief administrative officer.

The board of supervisors, by ordinance, shall establish procedure whereby appropriate city and county departments may file sealed bids for the execution of any work to be performed under contract. If such bid is the lowest, the contract shall be awarded to the department. Accurate unit costs shall be kept of all direct and indirect charges incurred by the department under any such contract, which unit costs shall be reported to and audited by the controller monthly and on the completion of the work.

In any case where the lowest gross price or unit cost bid is not accepted, and a contract is entered into with another bidder, written report shall be made to the chief administrative officer, the mayor and the controller by the officer authorized to execute the contract, with the reasons for failure to accept such lowest bid.

If any provision of this section is in conflict with any provision of section 88 of the charter, the provision contained in section 88 shall govern and control. [*Amended, 1947*]

This section must be construed as a law enacted by the Legislature. The approved Charter is a law of the state and has the same force and effect as a law directly enacted by the Legislature. **Yosemite, etc., Corp. v. State Board of Equalization** (1943) 59 Cal. App. (2d) 39, 138 Pac. (2d) 39.

A contract between a city department and the City is not within the impairment of obligations of contract clause. **Yosemite, etc., Corp. v. State Board of Equalization** (1943) 59 Cal. App. (2d) 39, 138, Pac. (2d) 39.

A contract in the form of a lease which is in reality a contract of purchase is void as in violation of Const. art. xi, § 18, where the obligations incurred exceed the income and revenue of the City and County for the year in which the obligation was incurred, and where no provision for meeting such indebtedness has been made as required. **Re San Francisco** (1925) 195 Cal. 426, 233 Pac. 965; **Mahoney v. San Francisco** (1927) 201 Cal. 248, 257 Pac. 49.

A contract for expert services in the preparation of plans, specifications, estimates of costs and contract documents required for a sewage disposal project may be let without competitive bidding. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

A contract of the Director of Public Works for the services of an expert to prepare plans, etc., for a sewage disposal project, need not be authorized by the Supervisors by a resolution or ordinance. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Charter provisions requiring that bids be received on contracts do not preclude a contract without bidding for services of a person highly skilled in his science or profession to make surveys, reports, etc., relative to traffic and transit conditions. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Sales Tax.—An award of a contract for a public improvement to a department of the City and County, though lacking in some of the elements of a contract, is a contract within the Retail Sales Tax Act, § 5 (d) (See Rev. & Tax Code, § 6355) exempting receipts from sales of property for performance of a "contract on public works" executed prior to the effective date of the act. **Yosemite, etc., Corp. v. State Board of Equalization** (1943) 59 Cal. App. (2d) 138, Pac. (2d) 39.

Implied Contract.—Where the formalities prescribed as prerequisites to the making of a contract for public improvement are not complied with, the law does not imply an obligation to pay for the work. **Zottman v. San Francisco** (1862) 20 Cal. 96, 81 Am. Dec. 96, quoted in **Medina v. Van Camp Sea Food Co.** (1946) 75 Cal. App. (2d) 551, 171 Pac. (2d) 445.

Progressive Payments

SECTION 96. Any contract may provide for progressive payments, if the advertisement for sealed proposals shall so specify. No progressive payments under any contract shall be made which, with prior payments, shall at any time exceed in amount ninety per cent of the value of the work and labor and materials furnished, and no contract shall authorize or permit the payment of more than ninety per cent of the total contract price before the completion of the work required by such contract and the acceptance thereof by the head of the department concerned.

Penalties and Extras

SECTION 97. If so specified in the published notice soliciting sealed bids for any public work or improvement, any contract therefor may be let for a gross price or on a basis of cost per unit of work to be performed, and may also provide for liquidated damages to the city and county for every day during which the contract is uncompleted beyond such specified date. In awarding any contract, the department head concerned is authorized to compare bids on the basis of time of completion. When any award of contract has been made in consideration, in whole or in part, of the relative time estimates of bidders for the completion of the work, the time within which the contractor shall start work shall be fixed and the performance within such time limits shall be covered by the bond required of the contractor, and no extension may be granted on such contract beyond the date specified for completion, unless the liquidated damages for each day the work is uncompleted beyond the specified date shall be collected; provided, however, that this shall not apply to unavoidable delays due to act of God.

If it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications, or provide for extras in such contract which shall increase the contract cost, such alterations, modifications or extras shall be made only on the written recommendation of the department head responsible for the supervision of the contract, together with the approval of the chief administrative officer or the board or commission, as the case may be, and also the approval of the controller. No such alteration, modification or extra shall be valid, unless the increased price to be paid under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the department head concerned, and approved as hereinbefore provided. In the performance of any contract awarded on the unit and the unit-cost basis, if the department head concerned ascertains that the amount of work done or to be done shall exceed the estimated amount of the contract by ten per cent, or more, the excess shall be provided for as prescribed by section 80 relative to supplemental appropriations.

Contractors' Working Conditions

SECTION 98. Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under sub-contract, sub-partnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide: (1) That in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day; (2) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; (3) that any person performing labor in the execution of the contract shall be a citizen of the United States; (4) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or "improvement," as used in this section, shall include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a sub-contract subject to the provisions of this section.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement, or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed ten per cent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any sub-contractor or materialman for the purpose of supplying the same to any contractor bidding on or performing any contract for any public work or improvement, said sub-contractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the board of supervisors by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding ten per cent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco. [*Amended, 1935*]

The section, as it stood in 1935, and its predecessor, did not apply to contracts, not for work to be done directly for the City and County, but for a sale or furnishing of completed chattels. **Neal Pub. Co. v. Rolph** (1915) 169 Cal. 190, 146 Pac. 659; **Pacific Mfg. Co. v. Leavy** (1936) 14 Cal. App (2d) 640, 58 Pac. (2d) 1292; **Pacific Mfg. Co. v. Worden** (1936) 14 Cal. App. (2d) 646, 58 Pac. (2d) 1294.

This section, as it stood in 1935, when it required "every contract for any public work or improvement exclusive of purchases" to contain certain provisions, did not apply to a subcontract to furnish mill work to be installed in a building, which did not provide for the doing of any work for the City and County, but for furnishing finished articles of merchandise. **Pacific Mfg. Co. v. Leavy** (1936) 14 Cal. App. (2d) 640, 58 Pac. (2d) 1292 (following **Neal Pub. Co. v. Rolph** (1915) 169 Cal. 190, 146 Pac. 659; **Pacific Mfg. Co. v. Worden** (1936) 14 Cal. App. (2d) 646, 58 Pac. (2d) 1294.

The argument that a contract was for work and labor rather than a contract of purchase, is not pertinent in considering the application of the section, under which the question to be determined is, is the contract one for public work. **Pacific Mfg. Co. v. Leavy** (1936) 14 Cal. App. (2d) 640, 58 Pac. (2d) 1292.

The Public Wage Rate Act of 1931 (Stats. 1931, p. 910, now Labor Code, § 1770 et seq.) is not effective, binding or controlling on a freeholders' charter city in connection with the execution and performance of a contract where the improvement contemplated is a municipal affair. **Pasadena v. Charleville** (1932) 215 Cal. 384, 10 Pac. (2d) 745.

Contract Procedure by Ordinance

SECTION 99. The board of supervisors shall, by ordinance, establish the necessary procedure to be followed in the advertising for bids, the award of contracts, the supervision of contract work, and the acceptance thereof on completion; also for the security to be given on the filing of bids to guarantee the execution of the contract if awarded, and for the security to be given on the award of contract for the faithful performance thereof and to guarantee the payment of wages for services engaged and of bills contracted for material, supplies and equipment used in the performance of the contract.

Collusion

SECTION 100. If any party or parties to whom a contract has been awarded has been guilty of collusion with any officer or representative of the city and county, or any other party or parties, in the submission of any bid or in preventing of any other being made, or in knowingly receiving preferential treatment by any officer or an employee of the city and county, then any contract so awarded, if not completed, may be declared null and void by the board of supervisors on the recommendation of the purchasing agent or the department head concerned, as the case may be, and the purchaser of supplies or the department head concerned shall thereupon re-advertise for bids for said work for the uncompleted portion thereof. If the work under such contract shall have been completed, the matter shall be referred to the city attorney for such action as may be necessary. Any party or parties guilty of such collusion shall not be permitted to participate in or to bid on any future public work, improvement or purchase to be made by the city and county.

BOND ISSUE PROCEDURE

General Laws Applicable

SECTION 101. The general laws of the State of California authorizing the incurring and establishing the procedure for the creation of bonded indebtedness and authorizing and establishing the procedure for the issuance of bonds to refund indebtedness of municipalities in force at the time any bonded indebtedness is created or refunded by the city and county shall, except as otherwise provided in this charter, be applicable to the creation of bonded indebtedness and the issuance of refunding bonds by the city and county.

This section which incorporates the general law on creation of bonded indebtedness of "municipalities, except as otherwise provided," does not prevent the creation of bonded indebtedness for county purposes as an exercise of powers appropriate to a county under § 2. **San Francisco v. Collins** (1932) 216 Cal. 187, 13 Pac. (2d) 912.

Interest on Bonds During Construction

SECTION 102. In any case where bonds have been authorized for the acquisition, construction or completion of a public utility or of extensions thereto, interest which may become due on said bonds during the actual period of construction of said utility, or of extensions to an existing utility, as the case may be, and during the period of six months immediately following the completion of the same may be paid out of the proceeds of sale of the bonds authorized and sold for such purpose, if such method of payment of interest be expressly provided for in the proceedings authorizing such bond issue.

Bonds for Street and Other Public Work—Revolving Fund

SECTION 103. A municipal indebtedness may be authorized to be incurred by the voters, in the manner now or hereafter provided by the general laws of the State of California, for the purpose of financing public improvements the cost of which is to be assessed against private property benefited thereby, and bonds may be authorized by the voters to be issued therefor, the proceeds of which shall be used as a "Revolving Fund" to be applied to the payment of incidental and other expenses, the progressive payments on the work or works or to pay the principal or interest of bonds, securities or other evidences of debt issued against said special assessments or to purchase any bonds or coupons issued against such special assessments.

Bonded Debt Limit

SECTION 104. No bonded indebtedness shall be incurred by the city and county which together with the amount of bonded indebtedness outstanding shall exceed twelve per cent of the assessed value of all real and personal property in the city and county subject to taxation for city and county purposes; provided, however, that bonded indebtedness heretofore or hereafter created for water supply, storage or distribution purposes, bonded indebtedness created pursuant to section 103 hereof and bonded indebtedness heretofore created in aid of the Panama-Pacific International Exposition shall be exclusive of the limitation on the amount of bonded indebtedness of the city and county contained in this section.

Bond Election for the Acquisition of Public Utilities to Be Called by the Board of Supervisors Upon Petition of Electors

SECTION 105. In addition to the method prescribed by the other provisions of this charter, the proceedings for the authorization and issuance of bonds for the acquisition, construction or completion of any public utility or utilities may also be initiated by electors in the manner following: Whenever a petition, signed by qualified electors of the city and county equal in number to fifteen per cent of the electors who voted for all candidates for the office of mayor at the last general election at which a mayor of the city and county was elected, requesting the board of supervisors to submit to the electors of the city and county a proposition or propositions for incurring bonded indebtedness for the acquisition, construction or completion of any public utility or utilities shall be filed in the office in which initiative petitions are required by this charter to be filed, the board of supervisors shall, as soon thereafter as in its judgment shall be practicable, proceed to call an election and submit to the electors of the city and county the proposition or propositions of incurring bonded indebtedness of the city and county for the purpose or purposes set forth in said petition. Neither errors nor informalities in said petition or in the signatures thereto nor the failure of the percentage of electors herein specified to sign the same, nor any delay in submitting said proposition or propositions to the electors shall invalidate any bonds which may be issued and sold pursuant to the provisions hereof. The provisions of this charter relating to the filing, verification and certification of initiative petitions shall be applicable to the petition herein referred to. Such election shall be called and held in the same manner as other bond elections of the city and county, and all proceedings for the issuance of bonds for the acquisition, construction or completion of such public utility or utilities, excepting only as otherwise provided in this section, shall be taken in accordance with the provisions hereinbefore set forth in this charter.

PUBLIC WORKS AND IMPROVEMENTS

Director of Public Works

SECTION 106. The department of public works shall be in charge of a director of public works, who shall be paid an annual salary of eight thousand dollars ($8,000). He shall be appointed by and hold office at the pleasure of the chief administrative officer. The director of public works shall appoint a city engineer, who shall hold office at the pleasure of said director. He shall possess the same power in the city and county in making surveys, plats and certificates as is or may from time to time be given by law to city engineers and to county surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are or may be given by law to those of city engineers and county surveyors. [*Salary of director of public works now subject to Section 151.1.*]

The director of public works shall have and succeed to the powers and duties of the board of public works from and after twelve o'clock noon on the 8th day of January, 1932, except as otherwise provided in this charter, at which time the terms of members of the board of public works shall terminate, and such board as theretofore existing shall be abolished.

All examinations, plans and estimates required by the supervisors in connection with any public improvements, exclusive of those to be made by the public utilities commission, shall be made by the director of public works, and he shall, when requested to do so, furnish information and data for the use of the supervisors.

The direction that the Director of Public Works make examinations, plans and estimates required by the Supervisors in connection with any improvements and furnish information to Supervisors when requested, applies to specific improvements. It does not foreclose a contract with a civil engineer to make surveys and reports relative to traffic and transit conditions. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

The provisions for the making of examinations, etc., required by the supervisors, does not import a limitation on the powers of the director, but, properly applied, places additional powers on him when required or requested by the Board of Supervisors. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

The provision (See Pol. Code, § 4041.34, now Gov. Code, § 31000) conferring on boards of supervisors power to contract for special services and advice in financial, economic, accounting, engineering, legal or administrative matters, by persons specially trained, is inapplicable to San Francisco and does not vest in the Board of Supervisors power to contract for expert services to prepare plans, etc., for a sewage disposal project, in view of the fact that the Charter (See § 95) prescribes the authority and procedure for the improvement and the contract contemplated. Kennedy v. Ross (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

General Law and Ordinance Procedure for Public Works

SECTION 107. Where a procedure for the exercising of any rights and powers belonging to a city, or a county, or a city and county, relative to the establishment or change of grades and the lay-out, extension, opening, widening, changing, closing, vacating, paving, repaving or otherwise improving streets and highways and public places, and constructing sewers, drains, conduits and culverts, subways, tunnels, viaducts and bridges, or other public improvements incidental or appurtenant thereto, to planting trees, constructing parking and removing weeds or the executing of any other public work or improvement hereby or hereafter placed under the jurisdiction of the department of public works, and the payment of damages, or levying of special assessment to defray the whole or part of the cost of such works or improvements is provided by statute of the State of California, such procedure shall control and be followed, unless a different procedure is provided in or under authority of this charter or by ordinance continued by this charter or any such ordinance hereafter amended or by ordinance passed by the board of supervisors, and the board of supervisors is hereby empowered to provide by ordinance for any such purpose.

The department of public works shall semi-annually notify the tax collector of the amount of each assessment that becomes delinquent and the lot and block number against which such assessment is levied, and it shall be the duty of the tax collector to note such delinquency on each annual tax bill.

Repair of Accepted Streets

SECTION 108. When any roadway of a street or portion thereof for not less than one continuous block has been paved in accordance with the specifications of the department of public works, and is in good condition, and sewer, gas and water pipes have been laid therein, the same shall be accepted by the supervisors by ordinance on the written certificate of the city engineer, and thereafter such portion of the roadway of said street shall be kept in repair and improved by the city and county. It shall be the duty of the owner of any property fronting on a public street to keep the sidewalk in front thereof in good repair and condition and the board of supervisors is hereby empowered to provide by ordinance for the repair of such sidewalks in all cases where the owner fails and neglects to repair the same.

Nothing herein contained shall relieve any railway company from making repairs to the roadway of any street in conformity with the terms of its franchise or as provided by law. [*Amended, 1935*]

Specified Types of Street Construction

SECTION 109. No patented pavement shall be ordered during the existence of the patent therefor, until the owner of such patent shall have transferred to the city and county all right to use of the same therein, with the privilege to any person to manufacture and lay same upon the streets under any contract that may be awarded to or entered into by him with the city and county.

Financing Special Assessment Projects

SECTION 110. The board of supervisors shall establish a public improvement revolving fund to which the board may make appropriations from tax levies thereto for the purpose of such fund, and may establish procedure for the use of the credit of the city and county for the establishment of said revolving fund, to be used solely for the purpose of financing all or part of the initial cost of public improvements to be paid in whole or in part from the proceeds of special assessments levied against the property deemed to be benefited. A bond issue or issues may be proposed, as authorized elsewhere in this charter, the proceeds of which shall be paid into said revolving fund for the financing of public improvements, provided that said revolving fund shall be reimbursed as prescribed in this section by the levy and collection of special assessments and that the interest and redemption or sinking fund charges on any bonds authorized for such purpose shall be paid from the proceeds of such levy.

On the recommendation of the director of public works and the chief administrative officer, sufficient bonds may be sold at one time to provide funds for the estimated cost of financing special assessment projects for a period of not to exceed one year. When any public improvement is to be financed in whole or in part from the proceeds of special assessments levied against the land deemed to be benefited, the director of public works, subject to the approval of the chief administrative officer, shall report to the controller the estimated cost of such improvement, the amount thereof to be levied by special assessment and the estimated amount of the appropriation to be made from the public improvement revolving fund to meet the initial cost of the project, including progressive payments and other direct or indirect costs chargeable to such project, and shall recommend the appropriation of the necessary sum from such revolving fund.

The supervisors, by ordinance, may provide for the amount to be added to the contract price and other costs of the work, as interest for the use of the revolving fund moneys in financing the cost of the improvement. Interest at the rate of not more than seven per cent may be charged on the unpaid balances of special assessments in cases where the owners of property against which such assessments are levied elect to pay such assessments in installments.

The amount of all special assessments levied for the payment of work financed out of the public improvement revolving fund, together with all interest accruing thereon, shall be credited as collected to such revolving fund. The board of supervisors may prescribe the duties of any city and county officer or department in maintaining accounts of and collecting assessments for each such improvement.

Limitation on Special Assessments

SECTION 111. Special assessments shall not exceed fifty per cent of the assessed value of the land on which the special assessment is levied, except that when such assessments are authorized to be paid in installments over a period not to exceed ten years, no annual installment payment shall exceed twenty-five per cent of the assessed value of the land on which the special assessment is levied.

Sewer, Water and Other Connections

SECTION 112. The director of public works shall have authority, in the manner provided by ordinance by the board of supervisors, (1) to order the laying of sewer, water, gas and other mains, conduits or connections, whenever, in view of contemplated street improvements or as a sanitary regulation, such construction is recommended by the city engineer, and (2) to order that excavations, fences, embankments or grades on private property in a condition deemed by him as endangering the persons or property of those using the abutting streets, shall be put in such condition as to insure the safety of the public.

Liability for Damages by Reason of Defective Sidewalks, etc.

SECTION 113. If any portion of any sidewalk or street in the city and county which has been accepted as provided by law shall be in such defective condition as to endanger persons or property and through the official negligence of the director of public works, such defect remains unremedied, unrepaired or unbarricaded, and in consequence thereof damage or loss to person or property is sustained or suffered, the said director shall be liable to the party injured for the damage sustained; provided that a notice in writing directing attention to the existence of such defect, and specifying the particular street and block thereof whereon or wherein such defect exists shall have been served upon such director at least five days before such damage shall have been sustained; and provided further, that there are at such times funds available to the said director for repairing or remedying such defects or barricading the same.

Spur Tracks

SECTION 114. The board of supervisors shall refer all requests for spur track permits to the director of public works who shall grant such permits in all cases where the spur track is to be located within a heavy industrial zone, as classified by the city planning commission, provided that such spur track shall be so constructed and operated as not to establish an unreasonable interference with the public use of the streets affected. The board of supervisors shall refer all other requests for spur track permits to the director of public works for report thereon, which shall be submitted by him within ten days after such reference, and shall not grant permission to lay any spur track until a report thereon shall have been received from said director, to the effect that such construction and operation will not create an unreasonable interference with the public use of the streets affected.

CITY PLANNING

City Planning Department Established

SECTION 115. There is hereby established a department of city planning which shall consist of a planning commission, a director of planning and such employees as may be necessary to carry out the functions and duties of said department. The city planning commission shall consist of seven members, five of whom shall be appointed by the mayor. The chief administrative officer and the manager of utilities, or their designated deputies, shall be members ex officio.

TERMS OF MEMBERS

The terms of appointive members of the commission shall expire one each at twelve o'clock noon on the 15th day of January in the years 1949, 1950, and 1951, and two at said time in the year 1948. Thereafter, the term of each appointive member shall be four years. Present appointees shall continue in office without change of incumbency for the existing terms thereof. The mayor shall fill all vacancies in office of appointive members of the commission occurring either during or at the expiration of terms.

PRESENT COMMISSION CONTINUED

Neither the foregoing provision for addition of members to the commission, nor the addition thereof, nor any change herein provided in the powers and duties of the commission shall be deemed to affect the continuity of the existence of the commission as such or the status of any matter pending before it. All recorded actions of the commission shall remain in force and effect unless and until changed by ordinance or by other legal means.

COMPENSATION

Ex officio members of the commission shall serve as such without compensation. The compensation of appointive members of said commission shall be fifteen dollars ($15) for each meeting of the commission actually attended by said members, provided that the aggregate amount paid all the members shall not exceed five thousand dollars ($5,00) per year. [*Amended, 1948*]

Director of Planning

SECTION 116. The planning commission shall appoint a director of planning who shall hold office at its pleasure and who shall be a person of adequate technical training and administrative experience in city planning. The director of planning shall be the administrative head and appointing officer of the department of city planning. The position of director of planning shall not be subject to any provisions of this charter prescribing a residence qualification for officers or appointees, provided, however, that during his incumbency the appointee to the position shall reside in the city and county. The commission may also appoint a secretary, which appointment shall not be subject to the civil service provisions of this charter. Subject to the provisions of section 86 of this charter, the commission may also contract with architects, city planners, engineers, or other consultants for such services as it may require.

THE MASTER PLAN

It shall be the function and duty of the commission to adopt and maintain, including necessary changes therein, a comprehensive, long-term, general plan for the improvement and future development of the city and county, to be known as the master plan. The master plan shall include maps, plans, charts, exhibits, and describtive, interpretive, and analytical matter, based on physical, social, economic, and financial data, which together present a broad and general guide and pattern constituting the recommendations of the commission for the coordinated and harmonious development, in accordance with present and future needs, of the city and county and of any land outside the boundaries thereof which in the opinion of the commission bears a relation thereto.

SCOPE OF THE MASTER PLAN

The master plan shall show the general location, character, and extent of existing and proposed street railway, bus, railroad, air, water, and other transportation routes and terminals, public ways, grounds, and open spaces, and the general location of major buildings, structures, and facilities constructed thereon or proposed, and shall include a land-use plan showing the proposed general distribution and the general location and extent of housing, business, industry, recreation, education, and other categories of public and private uses of land, and recommended standards of population density and building intensity, with estimates of population growth and a general description of the amount and general classes of industrial, business and other economic activities for which the commission deems that space should be supplied within the territory covered by the plan, all correlated with the land-use plan. It shall include proposals for the acquisition, extension, widening, narrowing, removal, relocation, vacation, abandonment, sale, or change in the use of any of the foregoing public ways, routes, grounds, open spaces, buildings, or structures.

PREPARATION OF THE MASTER PLAN

In the preparation of the master plan or any amendment thereto, the department of city planning is authorized to make or cause to be made such investigations, studies, maps, charts, exhibits, and reports as it may deem to be required.

PROCEDURE FOR AMENDMENT

The master plan may be amended to include at any time modifications and extensions thereof. Before the commission may adopt any substantial extensions of the master plan adopted prior to the passage of this amendment or any substantial amendment or addition thereto which in the judgment of the commission constitutes a major alteration in the plan, it shall hold at least one public hearing thereon, notice of the time and place of which shall be given by at least one publication in the official newspaper of the city and county not less than twenty days before the day of hearing. Adoption of the master plan or portions thereof or amendments, extensions or additions thereto shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the commission. Such resolutions shall refer expressly to the reports, plans, or descriptive and other matter intended to form the whole or part of the plan, and the action taken shall be recorded on such documents and an attested copy thereof shall be certified to the mayor and the board of supervisors.

ADDITIONAL POWERS AND DUTIES

The department of city planning may make such reports and recommendations to the mayor, the board of supervisors, and other officers and agencies as it may deem necessary to secure understanding and a systematic effectuation of the recommendations of the master plan. The department shall have the power to promote public interest in and understanding of the master plan and may publish and distribute copies of the plan or any portion thereof or of any report and may employ such other means of publicity and education as it may deem to be in the public interest.

The department shall act in an advisory capacity to the board of supervisors and other departments, commissions and agencies of the city and county in any matter affecting the physical improvement and development of the city and county. All public officials shall upon request furnish to the department of city planning such information as it may require for its work and the department of city planning shall furnish to all departments and officials of the city and county such information as said departments and officials may require concerning the master plan. In general, the department shall have such powers as may be necessary to enable it to fulfill its functions.

CAPITAL IMPROVEMENT PROGRAM

The department of city planning shall be governed by the provisions of section 69.1 of this charter pertaining to capital improvement projects. [*Amended, 1948*]

Legal Effect—Referral

SECTION 116.1. No ordinance or resolution which deals with the acquisition, extension, widening, narrowing, removal, relocation.

vacation, abandonment, sale, or change in the use of any public way, transportation route, ground, open space, building, or structure, the subject matter of which has not been previously reported on by the department of city planning in accordance with the provisions of sections 69, 69.1, 72 or 116.1 of this charter, shall be adopted by the board of supervisors unless and until such ordinance or resolution shall have first been referred to the department of city planning and a report rendered thereon regarding conformity of the matter involved to the master plan. If conformity does not exist the report shall give the particulars of the difference between the proposal and the master plan.

It shall be the duty of the department of city planning to render its report in writing upon any ordinance or resolution to the board of supervisors and to the controller within thirty days after the date of such referral unless a longer period is granted by the board of supervisors. Failure of the department of city planning to render any such report in such time shall be deemed equivalent to a report. [*New section, 1948*]

Zoning—Present Provisions to Apply Pending Ordinance Revision

SECTION 117. Until such time as the board of supervisors shall have enacted a new comprehensive zoning ordinance for the city and county based on a land use plan and providing for variances, and until the effective date of such ordinance, this section of the charter shall continue in force, and until such time, sections 117.1, 117.2, and 117.3, shall be inoperative. Upon the enactment and effective date of such an ordinance this section of the charter shall become inoperative for any purpose, and sections 117.1, 117.2, and 117.3, shall become operative.

ZONE CHANGES

The city planning commission, from time to time, shall consider and hold hearings on proposed changes in the classification of the use to which property in the city and county may be put, and the establishment or changing of building set-back lines, in either case, on its own motion or on the application of an interested property owner.

The board of supervisors, by ordinance, shall establish procedure for action on such matters, which ordinance must provide, among other things, that the commission shall give notice of time, place and date of hearing by posting throughout the area and by publication not less than twenty days prior thereto; that the commission shall notify, in writing, not less than ten days prior to said hearing, applicants for proposed changes, and all persons whose names and addresses are shown on the assessment roll as owners of property within three hundred feet of all exterior boundaries of the area affected by the proposed changes of the time and place of hearing, which names, addresses and other information shall be furnished by the applicant in the form required by the commission; that the commission, after hearing shall, by resolution, approve or disapprove the proposed change which, if approved, shall not become effective for thirty days; that appeal may be taken from the ruling of the commission by filing written protest with the board of supervisors, and if such protest is subscribed by the owners of twenty per cent of the property affected, the supervisors shall fix a time and a place for hearing such objections which shall be not less than ten nor more than thirty days after such filing, and must decide thereon within ten days of the start of such hearing, provided that, if the full membership of the board is not present on the last day on which said objections are set or continued for hearing within said period, the board may postpone said hearing and decision thereon until, but not later than, the full membership of the board is present; provided, further, that the latest date to which said hearing and decision may be postponed on such account shall not be more than ninety (90) days from the date of filing of such protest; that the supervisors, by not less than two-thirds vote, may disapprove the action of the commission, provided, however, that any change in zoning, classification or building set-back lines made by the commission on its own motion shall require approval of the supervisors by a two-thirds vote; that in case of disapproval by the commission or by the supervisors on appeal of a proposed change, such proposed change may not be resubmitted to or reconsidered by the commission for at least one year.

LEGISLATIVE REFERRAL

No ordinance shall be considered by the supervisors, the purpose or intent of which is the classification, regulation or control of the height, area, bulk, location or use of any building or buildings, or premise or premises, and classifying any property into any district or zone for such purposes, or establishing a set-back line or lines along any street or portion thereof in the city and county without being first submitted to the city planning commission for report and recommendation. If the commission disapproves any such ordinance, the supervisors may adopt the same only by an affirmative vote of at least two-thirds of its entire membership. The failure of the commission to act within sixty days from and after the date of official submissison of any proposed zoning classification or set-back line by the board of supervisors shall be deemed to be approval of such classsification or proposed set-back line by the commission. [*amended, 1948; 1952*]

In enacting zoning ordinances the municipality performs a legislative function, and every intendment is in favor of the validity of such ordinances, since it is presumed that the enactment as a whole is justified under the police power and adapted to promote the public health, safety, morals and general welfare. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38; **Corporation of Presiding Bishop v. Porterville** (1949) 90 Cal. App. (2d) 656, 203 Pac. (2d) 823.

The decision of the zoning authorities as to matters of opinion and policy will not be set aside or disregarded by the courts unless the regulations have no reasonable relation to the public welfare or unless the physical facts show that there has been an unreasonable, oppresive or unwarranted interference with property rights in the exercise of the police power. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38.

In a light commercial zone permitting retail business including processing and manufacturing incidental to a retail store, it is not unreasonable to make the line of demarcation depend on the size of the enterprise involved as measured by the number of employees. **Lockard v. Los Angles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38.

The existence of nonconforming uses does not necessarily invalidate a zoning ordinance, and no vested right to violate an ordinance may be acquired by continued violations. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38.

Similar characteristics in adjacent and surrounding areas do not necessarily preclude the zoning authorities from placing adjoining territory in different zones or justify a court in substituting its judgment for the legislative decision, especially where the surrounding areas are different. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38.

The fact that a commercial district has developed slowly is not determinative of zoning restrictions, since one of the bases for such regulations is the guidance of future development for the protection of residential areas. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453,

The action of a city planning commission and a city council in refusing to extend the boundaries of a light industrial zone to include a twelve block strip, and in placing such strip in a zone permitting retail business including processing and manufacturing incidental to a retail store, could not be said to have been unreasonable so as to warrant judicial interference where the undisputed physical fact showed that both the industrial and commercial zones were small in comparison with the surrounding residential areas, that the industrial zone was located at the end of a long narrow strip zoned for light commercial uses designed to serve the residential areas, and that the industrial area was bordered by a railroad which did not extend along the commercial zone, but ran diagonally away from it. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38.

Property owners who carry on prohibited business in defiance of the zoning regulations cannot take advantage of their own violations of the law. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38.

Where there is a rational basis for building restrictions established by a municipality, the wisdom thereof is a matter for the Legislature. **Corporation of Presiding Bishop v. Porterville** (1949) 90 Cal. App. (2d) 656, 203 Pac. (2d) 823.

A zoning ordinance restricting an area to single family residences bares a substantial relation to the public health, safety, morals and general welfare, since it tends to promote and perpetuate the home and protect its civil and social values by affording an opportunity and inducement for the acquisition and occupation of private homes where the owners thereof may live in comparative peace, comfort and quiet. **Corporation of Presiding Bishop v. Porterville** (1949) 90 Cal. App. (2d) 656, 203 Pac. (2d) 823.

As a part of a comprehensive zoning plan, a city may establish a zone limited to suit single family dwellings, excluding therefrom churches as well as general business enterprises, apartments, tenements and like structures, since it is a matter of common knowledge that people in considerable number assemble in churches and that parking and traffic problems exist where crowds gather. **Corporation of Presiding Bishop v. Porterville** (1949) 90 Cal. App. (2d) 656, 203 Pac. (2d) 823.

The power to grant a conditional use permit vested in a city planning commission in the first instance, and in the city council on appeal, under a zoning ordinance when it finds such use is essential or desirable to the public convenience or welfare, does not constitute an unlawful delegation of legislative power. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

A finding by the planning commission or by the city council of necessary facts to justify the granting of a conditional use permit under such an ordinance is an exercise of quasi-judicial, or perhaps administrative power, and does not amount to an exercise of legislative power. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

Under a zoning ordinance authorizing a city planning commission in the first instance, and the city council on appeal, to grant a conditional use permit, the essential requirement of due process is met when the administrative body is required to determine the existence or non-existence of the necessary facts before any decision is made, and such a discretion is not arbitrary or so unguided as to invalidate the ordinance. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

A decision by a city planning commission in the first instance, or by the city council on appeal, to grant a conditional use permit under a zoning ordinance authorizing it to do so when it finds such use essential or desirable to public convenience or welfare, does not create a new zone, but merely affirms as a fact the existence of the circumstances under which the ordinance by its terms prescribes that such permit shall issue. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

The business of excavating rock and gravel by the owner from lands belonging to him is a lawful and useful occupation, and the regulation thereof by a municipality should go no further than to control those particular features of the operations which might result in substantial injury to adjoining property or to persons residing or owning property in the near vicinity of the land on which the operations are being conducted. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

The act of a city council in granting an individual a conditional use permit to excavate for the commercial production of rock, sand and gravel in a district zoned as a residential area was not unconstitutional or unreasonable where the granting of the permit did not give the individual any right not theretofore vested in him, but merely removed the impediment imposed by the exercise of the police power; where the use granted by the permit was essential to the development of natural resources, which could be obtained only in particular areas; and where the permit did not restrict the neighboring owners in the use of their own property. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

Zoning regulations of a city are not contracts by the city and may therefore be modified. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

The provisions of a city zoning ordinance restricting the uses to which an individual's property can be put does not result in a contract with the neighboring owners divesting the city of the right subsequently to change the ordinance or to grant a conditional use permit adversely affecting the property of the neighboring owners. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

The theory of vested rights relates only to such rights as an owner of property may possess not to have his property rezoned after he has started construction thereof or is making a use thereof permitted by law, when such construction or use does not constitute a nuisance. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

The action taken by a city council in granting a variance permit to excavate for the commercial production of rock, sand and gravel in a district zoned as a residential area raises the presumption that the existence of the necessary facts authorizing such action had been ascertained and found. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

The policy and wisdom of granting a permit at variance from the general plan of zoning is a matter for determination by the legislative body of the municipality and not for the courts, whose function is merely to determine whether or not the legislative body acted within the limits of its power and discretion. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

The burden of proving that a city council acted in excess of its

jurisdiction in granting a permit at variance with the master plan rests on the persons complaining of such action, and this requirement is not satisfied by a mere showing that there was a conflict in the evidence, that the city council might have been justified in deciding differently, or that the record before the council might have supported a conclusion contrary to that which was reached. **Wheeler v. Gregg** (1949) 90 Cal. App. (2d) 348, 203 Pac. (2d) 37.

A city zoning ordinance restricting the use of property to residential purposes and prohibiting its use as a shopping center, though such was not a nuisance, was not invalid as applied to property not already in use as a shopping center, where the restriction did not create a monopoly, effect a confiscation by rendering the property entirely unsuitable for the restricted purpose, operate discriminatorily against a small spot or island, nor prohibit the only use of the property for which it was suited, since zoning is a valid exercise of the police power and a zoning ordinance will not be held invalid if its reasonableness is reasonably debatable. **Price v. Schwafel** (1949) 92 Cal. App. (2d) 77, 206 Pac. (2d) 683.

A resolution of a city council performing the administrative act of granting a conditional use permit, as authorized by an ordinance establishing one-family zones, does not constitute the "changing of a zoning ordinance," and does not violate the provisions of the city charter authorizing the Zoning Administrator to hear and determine applications for variance. **Essick v. Los Angeles** (1950) 34 Cal. (2d) 614, 213 Pac. (2d) 492, on hearing after 91 ACA 437, 205 Pac. (2d) 86.

The granting of either a "use" permit or a "variance" permit under a zoning ordinance is administrative or quasi-judicial rather than legislative action, and may be accomplished by resolution rather than by ordinance without violating a city charter provision that all legislative power of the city, except as otherwise provided therein, is vested in the council and shall be exercised by ordinance, and that other action of the council may be by order or resolution. **Essick v. Los Angeles** (1950) 34 Cal. (2d) 614, 213 Pac. (2d) 492, on hearing after 91 ACA 437, 205 Pac. (2d) 86.

The granting of a conditional use permit under a zoning ordinance does not constitute the "changing, amending or altering" of a zone within the meaning of a city charter prescribing the procedure to be followed in connection therewith, but authorizes a change within a zone; and the council in granting such permit after an adverse recommendation by the city planning commission, is not bound to follow the procedural provisions of the charter. **Essick v. Los Angeles** (1950) 34 Cal. (2d) 614, 213 Pac. (2d) 492, on hearing after 91 ACA 437, 205 Pac. (2d) 86.

Correct procedure for the passage of a zoning ordinance was followed where the municipality appointed a citizen's committee to make a zoning study and report to the city council, the committee employed an engineer to give technical assistance and advice and made its report, this was turned over to the city planning commission which also had technical advice and held two public hearings, and the city council held three hearings on the question before the ordinance was adopted. **Willett & Crane, Inc. v. Palos Verdes Estates** (1950) 96 Cal. App. (2d) 757, 216 Pac. (2d) 85.

A licensed physician who occupied a home in a residential zone, used the premises to write a syndicated column pertaining to health problems, and employed secretaries to take dictation and help him in receiving and mailing pamphlets requested by readers of his column, was not conducting a business within the meaning of a city ordinance prohibiting the establishment or conduct of any business in such zone, where the activities did not interfere with the appearance of his home or premises as a residence nor affect the residential or aesthetic character of the district, and his livelihood was derived from the authoring of the syndicated articles and not from the publishing and sale of the pamphlets. **Beverly Hills v. Brady** (1950) 34 Cal. (2d) 854, 215 Pac. (2d) 460, on hearing after 91 ACA 488, 1003, 205 Pac. (2d) 1088.

A restrictive zoning regulation pursuant to a municipality's comprehensive plan of community development, when reasonable in object and not arbitrary in operation is within the legitimate exercise of the police power. **Clemons v. City of Los Angeles** (1950) 36 Cal. (2d) 95, 222 Pac. (2d) 439, on rehearing after 35 AC 37, 216 Pac. (2d) 1.

A city ordinance prohibiting the reduction of residential lots below a specified minimum in area and frontage appears to supplement the State Subdivision Map Act. (Stats. 1937, p. 1864, as amended; now Bus. & Prof. Code § 1150 et seq.) in aid of desirable community planning and is a reasonable and valid restriction. **Clemons v. City of Los Angeles** (1950) 36 Cal. (2d) 95, 222 Pac. (2d) 439, on rehearing after 35 AC 37, 216 Pac. (2d) 1.

The Board of Supervisors in establishing a procedure as directed by this section cannot deprive a property owner of a right given by the Charter. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

It is presumed that the words "an interested person," as used in the section, were used in the same sense in which they were by prior decisions deemed to have been used in various statuts. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

An adjacent property owner is interested in the use to which his neighbor may legally put his property and is, therefore, an interested property owner within the section. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

An ordinance providing that a petition for rezoning shall be signed and verified by "the owner of the property" is invalid as an attempted limitation on the section which authorizes such an application by "an interested property owner." **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46, Pac. (2d) 308.

New Provisions for Zone Changes

SECTION 117.1. The city planning commission shall consider and hold hearings on proposed changes in the zoning ordinance which classifies the uses to which property in the city and county may be put, and on the establishment or changing of building setback lines, either on its own motion, or on the application of interested property owners or their authorized agents. The board of supervisors, by ordinance, shall establish procedure for action on such matters. The city planning commission shall give notice of time and place of such hearings and shall act upon such applications for change within ninety days from the date of conclusion of the hearing. Failure to act within said time shall constitute disapproval. If approved, such applications, together with the approval of the commission, shall be presented to the board of supervisors, which may adopt such changes by a majority vote. If disapproved, the action of the city planning commission shall be final, except that appeal may be taken from the ruling of the commission by filing written protest with the board of supervisors within a period of thirty days after the action of the city planning commission, and if such protest is subscribed by the owners of twenty per cent of the property affected. The board of supervisors or the clerk thereof shall set a time and place for hearing such appeal, which shall be not less than ten nor more than thirty days after such filing. The board must decide such appeal within ten days of the time so set for such hearing, provided that, if the full membership of the board is not present on the last day on which said objections are set or continued for hearing within said period, the board may postpone said hearing and decision thereon until, but not later than, the full membership of the board is present, or the action of the commission shall be deemed to be approved by the board, provided, further, that the latest date to which said hearing and decision may be postponed on such account shall not be more than ninety (90) days from the date of filing of such protest. The supervisors may disapprove the action of the commission on such appeal by a vote of not less than two-thirds of all members of the board and adopt such change in said ordinance. Any action of the commission so appealed shall not become effective unless and until approved by the board within the time aforesaid. In case of disapproval by the commission or by the supervisors on appeal of a proposed change, such proposed change may not be resubmitted to or reconsidered by the commission for at least one year. [*New section, 1948; amended, 1952*]

New Provisions for Zoning Administration

SECTION 117.2. There shall be in the department of city planning a zoning administrator appointed subject to the civil service provisions of this charter who shall administer and enforce the zoning and set-back ordinances. He shall receive and investigate all applications for proposed amendments thereto and shall submit his report and recommendations thereon to the director of planning prior to the hearing by the commission thereon. [*New section, 1948*]

Variances

SECTION 117.3. The zoning administrator shall receive, investigate, hear and determine all applications for variances from the strict application of the provisions of the aforesaid ordinances. The board of supervisors shall establish by ordinance the procedure for action on such matters, including the manner by which notice of time and place of hearings shall be given. The zoning administrator shall have power to grant only such variances as may be in harmony with the general purpose and intent of said ordinances and in accordance with the general and specific rules therein contained, subject to such conditions and safeguards as he may impose. He shall have authority to grant such variances only when the strict and literal interpretation and enforcement of the provisions of said ordinances would result in practical difficulties, unnecessary hardships or results inconsistent with the general purposes of the zoning regulations. Before any such variance may be granted, there shall appear, and the zoning administrator shall specify in his findings, the facts in each case which shall establish:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same district or zone;

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner, possessed by other property in the same zone and vicinity; and

(3) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located.

VARIANCE APPEALS

The determination of the zoning administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the board of permit appeals, exclusively and notwithstanding any other provision of this charter, by any person aggrieved or by any officer, board, or commission of the city and county. An appeal from a determination of the zoning administrator shall be filed within ten days from the date of such determination with the board of permit appeals. Upon making a ruling or determination upon any matter under his jurisdiction, the zoning administrator shall thereupon furnish a copy thereof to the applicant and to the director of planning. No variance granted by the zoning administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

BOARD OF PERMIT APPEALS—POWER TO ACT ON VARIANCES

The board of permit appeals shall have and exercise the following powers:

(a) To hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the zoning administrator in the enforcement of the provisions of any ordinance adopted by the board of supervisors creating zoning districts or regulating the use of property in the city and county;

(b) To hear and determine appeals from the rulings, decisions and determinations of the zoning administrator granting or denying applications for variances from any rule, regulation, restriction or requirement of the zoning or set-back ordinances, or any section thereof. Upon the hearing of such appeals said board may affirm, change, or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other additional determination as it shall deem proper in the premises, subject to the same limitations as are placed upon the zoning administrator by this charter or by ordinance. [*New section, 1948*]

> An applicant for a variance from a zoning ordinance which provides for the granting thereof may not attack its constitutionality in a proceeding in mandamus to compel the municipality to grant the variance, since by filing the application he admits the validity of the ordinance. **Hadden, Inc. v. Inglewood** (1950) 101 Cal. App. (2d) 47, 224 Pac. (2d) 913.

Subdivisions

SECTION 118. All plats or replats of subdivisions of land laid out in building lots, and the project plans for public and private housing, slum clearance and the rehabilitation and redevelopment of blighted areas, including the streets, alleys or other lands intended to be dedicated to public use or for the use of lessees, purchasers, or owners of lots fronting thereon or adjacent thereto, and located within the city and county limits, shall be submitted in tentative form to the department of city planning and the city planning commission shall report its recommendations thereon in writing to the agency responsible therefor, as provided by ordinance. Should major changes occur after acceptance of the tentative map, the final plat shall be submitted for further report thereon to the department of city planning. [*Amended, 1948*]

A master plan or some over-all plan contemplated by a city in the development and building up of a subdivision need not be approved and adopted before authority vests in relation to conditions imposed by the city on a subdivider, where the charter contemplates that portions of the plan may be adopted. **Ayres v. City Counsel of Los Angeles** (1949) 34 Cal. (2d) 31, 207 Pac. (2d) 1, on hearing after 84 ACA 730, 191 Pac. (2d) 546.

Conditions imposed by a city upon a subdivider submitting a subdivision map that he dedicate land to the widening of a street and reserve the use of other land for planting trees and shrubbery, are not unconstitutional as an exercise of the power of eminent domain under the guise of pursuing the authority of subdivision map proceedings, since such a proceeding is not one in eminent domain, but one in which the subdivider seeks to acquire the advantages of lot subdivision, and in him rests the duty of compliance with reasonable conditions for design, dedication, improvement and restrictive use of land so as to conform to the safety and general welfare of the lot owners in the subdivision and of the public. **Ayres v. City Counsel of Los Angeles** (1949) 34 Cal. (2d) 31, 207 Pac. (2d) 1, on hearing after 84 ACA 730, 191 Pac. (2d) 546.

A uniform plan by a city for developing and building up a district is not lacking merely because of some discrepancies in uniformity or delays in enforcement or fulfillment of conditions imposed on a subdivider. **Ayres v. City Counsel of Los Angeles** (1949 34 Cal. (2d) 31, 207 Pac. (2d) 1, on hearing after 84 ACA 730, 191 Pac. (2d) 546.

It is no defense to the conditions imposed by a city on a subdivider in a subdivision map proceeding that their fulfillment will incidentally also benefit the city as a whole, that the conditions contemplate future as well as more immediate needs, or that the master plans are incomplete or the specific details are not shown therein. **Ayres v. City Counsel of Los Angeles** (1949) 34 Cal. (2d) 31, 207 Pac. (2d) 1, on hearing after 84 ACA 730, 191 Pac. (2d) 546.

Where no specific restriction or limitation of an autonomous city's power in developing and building up a subdivision is contained in its charter, and none forbidding the particular conditions imposed by a city is included either in the Subdivision Map Act (Stats. 1937, p. 1874, as amended; now Bus. & Prof. Code, § 11500 et seq.) or the city ordinances, the conditions are lawful which are not inconsistent with the statute and the ordinances and reasonably required by the subdivision type and use as related to the character of local and neighborhood planning and traffic conditions. **Ayres v. City Counsel of Los Angeles** (1949) 34 Cal. (2d) 31, 207 Pac. (2d) 1, on hearing after 84 ACA 730, 191 Pac. (2d) 546.

Sections 118 and 119 of the charter of San Francisco are consistent with and confirm the provisions of Section 105 through 111 and places upon "private persons, firms or corporations" the expense of side sewer construction and repair. **Edward Brown & Sons v. City and County of San Francisco** (1950) 36 Cal. (2d) 272, 223 Pac. (2d) 231, on hearing after 95 ACA 189, 212 Pac. (2d) 562.

PUBLIC UTILITIES AND FRANCHISES

Public Utility Policy

SECTION 119. It is the declared purpose and intention of the people of the city and county, when public interest and necessity demand, that public utilities shall be gradually acquired and ultimately owned by the city and county. Whenever the board of supervisors, as provided in sections 101 to 104, inclusive, of this charter, shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities by the city and county, or whenever the electors shall petition the supervisors, as provided in sections 105, 179 and 180 of this charter, for the acquisition of any public utility or utilities, the supervisors must procure a report from the public utilities commission thereon.

The city is committed by this provision of the Charter to a general policy of public ownership of all public utilities. City and County of San Francisco v. United States (1939) 106 Fed. (2d) 569.

Extension of Municipal Railway by Unification with Market Street Railway

SECTION 119.1. 1. The City and County of San Francisco shall have power and is hereby authorized, in addition to all other powers howsoever conferred upon said city and county, to extend the existing San Francisco municipal railway by the acquisition of the operative properties of Market Street Railway Company, hereinafter called "said operative properties," and to acquire said operative properties, thereby supplying said city and county and the inhabitants thereof with a unified street railway system and incidentally furnishing transportation in and to San Mateo County.

2. The adoption of this section shall be deemed to and shall constitute a finding by the people of the City and County of San Francisco that the public interest and necessity demand the extension of the existing municipal railway by the acquisition of said operative properties, thereby providing a unified municipal railway system for the benefit of said city and county and its inhabitants.

3. Upon the payment in full of the cost of said operative properties, as herein provided, said operative properties shall be consolidated with the present municipal railway and shall become a part thereof and both of said systems so consolidated, and all additions, betterments and improvements thereto, shall constitute

the municipal railway of the City and County of San Francisco, and shall be subject to all the provisions of this charter then in effect. Prior to the payment in full, as herein provided, of the cost of said operative properties the same shall be operated by the public utilities commission, hereinafter called "commission," and the provisions of sections 74, 127, 128, 128.1, 129 and 130 of this charter shall not be applicable to said operative properties, the operation thereof, or the revenues derived therefrom, nor shall any other provision of this charter, inconsistent with the provisions of this section 119.1, be applicable; provided, however, that said commission shall nevertheless manage, control and operate said properties as an extension of the municipal railway with uniform fares and transfer privileges so as to constitute a unified street railway system.

Prior to the acquisition of said operative properties, the commission shall submit, and the mayor shall approve and the board of supervisors shall adopt, a budget relating to such unified operation in the same manner and subject to the same conditions except time as provided in the charter and in this section 119.1, for the submission and approval of the annual budget, the annual appropriation ordinance and the annual salary ordinance. Provided that such budget and ordinances shall become effective upon such acquisition.

For the purpose of accounting for the revenues derived from the operation of said operative properties prior to the payment in full of the cost thereof, 57% of the gross revenues of the municipal railway and said operative properties shall be deemed to be and shall constitute the revenues applicable to and derived from the operation of said operative properties, and said revenues shall be set aside by the controller in a special fund, which is hereby created, to be designated "Municipal Railway-Market Street Extension Fund," hereinafter called "extension fund" and shall be held separate and apart from all other moneys in the treasury.

Out of the moneys estimated to be received in said extension fund there shall be appropriated by the board of supervisors the amounts recommended by the commission for the following purposes and in the following order:

(a) The operating expenses of said operative properties, including pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require in connection with said operative properties. The aggregate amount provided from said extension fund for such requirements in any year shall be 55.96% of the annual cost of all the operating expenses and above described charges and payments made on account of both the existing municipal railway and said operative properties then operated as a unified system;

(b) All amounts provided for repairs and maintenance of said operative properties. The aggregate amount provided from said extension fund for such requirements in any year shall be 56.49% of the annual cost of repairs and maintenance of both the existing municipal railway and said operative properties, then operated as a unified system;

(c) Amounts determined by the commission to be necessary to create and maintain a reconstruction and replacement fund applicable to said operative properties, not exceeding for the first year after such acquisition $500,000, and not less than $300,000, and in subsequent years, until the purchase price shall have been paid in full, a sum not exceeding $750,000 for the first year and not less than $500,000 per annum thereafter. Any unencumbered balance remaining in said reconstruction and replacement fund at the close of each fiscal year shall become a part of the moneys to be paid to the Market Street Railway Company pursuant to sub-paragraph (d) hereof;

(d) The entire balance remaining in the extension fund which shall be paid to Market Street Railway Company as required by the terms of the purchase contract, but in any event not later than thirty days after the close of the fiscal year of the city and county. It is hereby found and determined that the ratios herein established for gross revenues, operating expenses and other charges, and repairs and maintenance of the municipal railway and said operative properties represent the exact ratios prevailing between said systems based on a study and report of the commission which is hereby approved and adopted.

4. All amounts herein required to be paid from the extension fund shall be paid by the treasurer of the city and county upon presentation of a controller's warrant drawn at the demand of the commission. It is hereby made the duty of the commission

to make such demand in accordance with the terms of the purchase contract and for the purposes herein provided.

All moneys paid to Market Street Railway Company shall be applied first to the payment of interest on the purchase price and the balance to the unpaid principal of said purchase price. None of the moneys in said trust fund shall be diverted to any other purpose or used or applied for any other city and county purposes or transferred to any other fund.

5. The provisions of this section 119.1 shall prevail over any other provision of this charter or general law, and the method herein provided for the extension of the existing municipal railway by acquisition of said operative properties shall be deemed to constitute an additional method of providing for such extension by the acquisition of said operative properties and for the payment of the cost thereof.

Whenever the commission, with the advice and approval of the mayor, shall agree with the Market Street Railway Company upon the terms and conditions of such acquisition of said operative properties, it shall be the duty of the commission and the mayor to execute such contract for and on behalf of the City and County of San Francisco and in its name. Subject only to the provisions of this section 119.1, such contract may provide, among other things:

(a) That the maximum purchase price shall be $7,500,000, whereof $2,000,000 shall be paid forthwith from surplus in any of the funds of the existing municipal railway derived from earnings of the existing municipal railway, which surplus is hereby determined to exist and to be available for, and is hereby appropriated for, said purpose, and the city and county shall be obligated solely to pay the balance of said purchase price exclusively from the moneys in said extension fund, as herein provided. The unpaid balance of said purchase price shall bear interest at the rate of not to exceed four (4) per cent per annum, payable annually.

It is hereby found and determined that after making said initial payment herein provided to be made to Market Street Railway Company there will remain in the funds of the municipal railway moneys fully sufficient to pay and discharge all current obligations of the bonds issued by the city and county for the acquisition, construction and completion of said municipal railway and all other costs and charges now payable from said funds;

(b) That the title to said operative properties shall be transferred to the city and county upon payment of said $2,000,000 and the execution of proper instruments of conveyance and shall be good and merchantable title free and clear of all claims, liens and encumbrances of every kind and character, whether in favor of the Market Street Railway Company or in favor of any one other than Market Street Railway Company;

(c) That upon the delivery of such instruments of conveyance, Market Street Railway Company shall assign and transfer to the city and county all franchises, permits and licenses of any kind or character necessary or desirable in connection with the operation of said operative properties, and shall surrender and cancel its existing operating permit, whereupon all rights, privileges and obligations under said operating permit and all other permits and franchises granted by the city and county shall be terminated and cancelled;

(d) That uniform rates, fares and charges, and universal transfer privileges shall be established and maintained by the commission and that except for school children and other special cases pursuant to which reduced or free transportation now exists in accordance with the existing practice of the municipal railway, the regular fare for transportation of passengers on said unified street railway system shall not be less than 7 cents per passenger until the purchase price of said operative properties shall have been paid in full as herein provided; and provided, however, that said fares shall not be increased in excess of 7 cents per passenger except in accordance with the procedure of section 130 of the charter;

(e) That the City and County of San Francisco and all commissions, boards, officers and employees thereof shall comply with the terms and conditions of said contract and this section 119.1. Such contract may contain such other terms and conditions not inconsistent with the provisions of this section, as the commission may deem appropriate for the purpose of carrying out the objects and purposes of this section, including but without being limited to the agreement that the city and county will operate said operative properties and maintain the same in good running order, and otherwise utilize said operative properties in an efficient and economical manner in accordance with the established operating and business standards and practices of the street railway industry, subject only to breakdown and other causes beyond the control of the city and county; that the city and county will not make any extensions, radical changes or alterations to said operative properties or abandon any substantial portion thereof except only to the extent that such extensions or abandonments are required by reason of the unification of the operations of said operative properties with those of the municipal railway. The city and county, however, shall not be obligated to pay any of the costs or expenses provided to be paid under such contract from any source other than said extension fund.

6. Except for the sum of $2,000,000 to be paid Market Street Railway Company as herein provided, the obligation of the city and county to pay the balance of said purchase price, interest thereon, all operating expenses, all other charges of any other kind or character incurred in connection with said operative properties shall be limited exclusively to moneys in said extension fund as herein provided and under no circumstances shall the payment of any part thereof constitute a debt, liability or obligation of the City and County of San Francisco, nor shall the city and county be obligated to pay any part thereof from any moneys derived from the levy or collection of taxes upon the taxable property of the City and County of San Francisco, provided that nothing herein or elsewhere in the charter contained shall prevent the city and county from paying any part of the balance of said purchase price and interest thereon or any other charges in connection with the operation or maintenance of said operative properties from any funds of the municipal railway appropriated by the board of supervisors for that purpose, which said funds the board of supervisors may in its discretion appropriate; and in the event of such appropriation the provisions of section 129 of the charter, insofar as the revenues of the municipal railway are concerned, shall be suspended until the cost of the acquisition of said operative properties is paid in full, and provided further that under no circumstances shall the city and county make such payments from its general funds or from any funds other than as provided by this section 119.1.

7. The acquisition of said operative properties in the manner herein provided is hereby determined to be and shall constitute an extension and improvement of the existing municipal railway.

8. Until the purchase price of said operative properties shall have been paid in full, the commission is hereby authorized to fix, establish and collect uniform rates, charges and fares for the transportation of persons on both the municipal railway and the said operative properties, without regard to section 130 of the charter, except as herein provided, and provided that such rates, charges and fares shall not be less than those specified in this section 119.1. After the purchase price of said operative properties shall have been paid in full all rates, charges and fares for transportation service furnished by the then unified and extended municipal railway shall be fixed, established and collected only in accordance with the then existing provisions of the charter, without regard to this section 119.1. [*New section, 1944*]

Emergency powers of Mayor relating to compensation of employees of Market Street Railway, on its acquisition by city, see notes under § 25.

The "commission" referred to in the provision relating to the submission of a budget (§ 3), is the Public Utilities Commission, and the section has no bearing on the question of the Civil Service Commission's right to fix a short time limit within which employees of a public utility acquired by the City and County shall protest their tentative classifications in the civil service. Kenney v. Wolff (1948) 84 Cal. App. (2d) 592, 191 Pac. (2d) 88.

Payment of Balance Due Market Street Railway

Section 119.2. Notwithstanding anything contained in section 119.1 of the charter, or any other provision thereof, the City and County of San Francisco may fund, refinance and pay the entire balance due Market Street Railway Company for the cost of the acquisition of the operative properties of Market Street Railway Company out of current revenues or the proceeds of the sale of any bonds of the City and County of San Francisco which may be authorized for that purpose.

Bonds of the city and county issued to fund or refinance such unpaid balance due Market Street Railway Company may be issued substantially in the form and manner and under the procedure provided by law for the refunding of any outstanding bonded indebtedness of municipalities. [*New section, 1948*]

Operation of Cable Cars

Section 119.3. In the conduct of the municipal railway the public utilities commission shall maintain and operate the present and existing cable car system now operated by the municipal railway, in the interest of public safety and convenience and as a link with San Francisco's historic past.

This section shall have precedence over section 121 of the charter of said city and county and any other section deemed in conflict herewith. [*New section, 1948*]

Acquisition of Operative Properties of California Street Railroad Company—Operation

SECTION 119.4. The City and County of San Francisco shall have power and is hereby authorized, in addition to all other powers howsoever conferred upon said city and county, to extend the existing San Francisco municipal railway by the acquisition of the operative properties of the California Street Cable Railroad Company, and to acquire said operative properties.

In addition to all other operative properties of every kind and character, said operative properties shall include lot 1 of assessor's block 250, being the southwest corner of California and Hyde Streets, 219 feet 6 inches on California Street by 137 feet 6 inches on Hyde Street, and all of the right, title and interest of said company in lot 2 of assessor's block 25, located on the west side of Hyde Street, 46 feet south of Beach Street, 10 feet 6 inches on Hyde Street, by a depth of 23 feet.

The adoption of this section shall be deemed to and shall constitute a finding by the people of the City and County of San Francisco that the public interest and necessity demand the extension of the existing municipal railway by the acquisition of said operative properties, thereby providing a unified municipal railway system for the benefit of said city and county and its inhabitants.

Whenever the public utilities commission, with the advice and approval of the mayor and the board of supervisors, shall agree with the California Street Cable Railroad Company upon the terms and conditions of such acquisition of said operative properties, it shall be the duty of the commission and the mayor to execute such contract for and on behalf of the City and County of San Francisco and in its name. Such contract shall provide, among other things:

(a) That the maximum purchase price of said properties shall be $150,000, the period of payment of which shall not exceed one year;

(b) That the title to said operative properties shall be transferred to the city and county upon execution of said agreement and the execution of proper instruments of conveyance and shall be good and merchantable title free and clear of all claims, judgments, liens and encumbrances of every kind and character, whether in favor of the California Street Cable Railroad Company or in favor of any one other than the California Street Cable Railroad Company;

(c) That upon the delivery of such instruments of conveyance, California Street Cable Railroad Company shall assign and transfer to the city and county all franchises, permits and licenses of any kind or character necessary or desirable in connection with the operation of said operative properties, and shall surrender and cancel its existing operating permit, whereupon all rights, privileges and obligations under said operating permit and all other permits and franchises granted by the city and county shall be terminated and cancelled.

It shall be the duty of the board of supervisors, and it shall have power, to provide funds for the payment of said purchase price out of the general funds, or any other funds, which may legally be made available in accordance with the fiscal provisions of the charter.

Prior to the acquisition of said operative properties, the public utilities commission shall submit, and the mayor shall approve and the board of supervisors shall adopt, a budget relating to the operation of said properties in the same manner and subject to the same conditions except time as provided in the charter and in this section 119.4, for the submission and approval of the annual budget, the annual appropriation ordinance and the annual salary ordinance. Such budget and ordinance shall become effective upon such acquisition.

In the acquisition of said properties, the provisions of section 119 of this charter shall not be applicable; and the provisions of section 119.3 shall not be applicable in the operation thereof. [*New section, 1949*]

PUBLIC UTILITIES COMMISSION

Section 120. A public utilities commission is hereby created, which shall consist of five members, who shall be appointed by the mayor and who shall be subject to recall and to suspension and removal in the same manner as elective officers. The term of each commissioner shall be four years, provided that the five commissioners first appointed by the mayor after twelve o'clock noon, on the 8th day of January, 1932, shall, by lot, classify their terms so that the term of one commissioner shall expire at twelve o'clock noon on the 15th day of January in each of the years 1933, 1934, and 1935, respectively, and that the terms of two other commissioners shall expire at twelve o'clock noon on the 15th day of January, 1936, and on the expiration of these and successive terms, the mayor shall appoint their successors for four years. The compensation of each commissioner shall be one hundred dollars ($100) per month.

General Powers and Duties of Commission

Section 121. The public utilities commission shall have charge of the construction, management, supervision, maintenance, extension, operation and control of all public utilities and other properties used, owned, acquired, leased or constructed by the city and county, including airports, for the purpose of supplying any public utility service to the city and county and its inhabitants, to territory outside the limits of the city and county, and to the inhabitants thereof.

The commission shall locate and determine the character and type of all construction and additions, betterments and extensions to utilities under its control, and shall determine the policy for such construction or the making of such additions, betterments and extensions from the public funds under its jurisdiction; provided that in each such case it shall secure the recommendation of the manager of utilities, which shall be presented in writing and shall include analyses of cost, service and estimated revenues of all proposed or feasible alternatives in cases where it is deemed by the manager that such alternatives exist.

The commission shall also have power to enter into contract for the furnishing of heat, light and power for municipal purposes, and to supervise the performance and check the monthly bills under such contract.

The commission shall have full power and authority to enter into such arrangements and agreements as it shall deem proper for the joint use with any other person, firm or corporation owning or having jurisdiction over poles, conduits, towers, stations, aqueducts, reservoirs and tracks for the operation of any of the utilities under its jurisdiction. It may make such arrangements as it shall deem proper for the exchange of transfer privileges with any privately owned transportation company or system which shall tend toward the betterment of transportation service.

The commission shall observe all city and county ordinances and the regulations of the department of public works relative to utility openings, structures and poles in streets and other public places, as well as all ordinances and regulations relative to barricades, construction lights, refilling excavations and replacing and maintaining street pavements; and in connection with all such matters the said commission shall be subject to the same inspection rules and pay fees to the proper department in the same manner and at the same rates as any private person or corporation.

The commission shall have charge of all valuation work relative or incidental to purchase proceedings initiated by the city and county for the acquisition of any public utility.

Foreign trade zones, as may be authorized by acts of Congress to be located in the city and county, are hereby declared to be public utilities within the meaning of this charter. A bonded indebtedness for the construction, completion or acquisition of foreign trade zones and the acquisition of necessary lands, buildings and equipment authorized by the electors in accordance with the provisions of this charter shall be exclusive of the bonded indebtedness of the city and county limited by this charter.

Although an employee's tenure may rest in the discretion of the Public Utilities Commission and he can be discharged at any time under this section, it does not follow that the commission has authority to change his compensation. **Francis v. Leavy** (1933) 131 Cal. App. 619, 21 Pac. (2d) 979.

Discontinuance or abandonment of part of the municipal transportation service, such as auto bus service along the ocean beach, could be ordered by the Public Utilities Commission, even though the Board of Supervisors did not first determine that the public interest or necessity demanded such discontinuance or abandonment. **Mann v. San Francisco** (1934) 139 Cal. App. 652, 34 Pac. (2d) 817, citing and commenting on **Hunt v. Boyle** (1928) 204 Cal. 151, 267 Pac. 97.

Utility Departments and Bureaus

SECTION 122. The San Francisco municipal railway, the San Francisco water department, the Hetch Hetchy project until the completion thereof when it shall be merged with the water department, the airport, and any other public utility hereafter acquired, shall each be designated as a department under the commission, and, in addition, the commission may create a bureau of engineering and such other bureaus as it may deem necessary for the handling of matters that do not pertain exclusively to any one utility or department. The salaries and general expenses of the commission or bureaus thereof not chargeable to a specific utility shall be apportioned fairly among the utilities under the control of the commission in such manner as the commission may deem appropriate, and such apportionment shall be shown as expenses of such utilities.

Section quoted in **Yosemite, etc., Corp. v. State Board of Equalization** (1943) 59 Cal. App. (2d) 39, 138 Pac. (2d) 39, see notes to § 95.

Referendum on Any Lease or Sale of Public Utility Property

SECTION 123. The board of supervisors shall have power to lease or sell any public utility or any part thereof; provided that any ordinance or other measure involving the lease or sale of any public utility or part thereof, except as provided in sections 92 and 93 of this charter, or any ordinance granting any new franchise for the operation of any public utility whose franchise has expired, or is about to expire, must be referred and submitted to a vote of the electors of the city and county at the election next ensuing not less than sixty days after the adoption of such ordinance, and shall not go into effect until ratified by a majority of the voters voting thereon.

Manager of Utilities and Other Executive Heads

SECTION 124. The public utilities commission shall appoint a manager of utilities who shall be the chief executive of the commission and shall, subject to the approval of the commission, have the management of all utilities, bureaus and operations under its jurisdiction. He shall be paid an annual salary of twelve thousand dollars ($12,000). He shall hold office at the pleasure of the commission. Subject to the approval of the commission, he shall appoint or remove the heads of departments and bureaus under the commission, exclusive of the civil service provisions of this charter. The manager of utilities and the heads of departments and bureaus shall each possess the necessary executive, administrative and technical qualifications for their respective offices. The manager shall have full power to administer the affairs of the commission as chief executive officer and may, with the consent of the commission, act as the head of any department or bureau created by this charter or by the commission. The salaries of the manager and heads of separate utilities and bureaus shall not exceed prevailing salaries paid those holding similar positions in comparable private employment. [*Salary of manager of utilities now subject to Section 151.1.*]

Employments

SECTION 125. All employees engaged in public utility work at the time this charter shall go into effect, and who have been permanently appointed to their respective positions in conformity with the civil service provisions of this charter, shall become employees of the public utilities commission under the classification held by each such employee at such time. All persons employed in the operating service of any public utility hereafter acquired by the city and county, at the time the same is taken over by the city and county, and who shall have been so employed for at least one year prior to the date of such acquisition, shall be continued in their respective positions and shall be deemed appointed to such positions, under, and entitled to all the benefits of, the civil service provisions of this charter; provided, however, that no person who is not a citizen of the United States shall be so continued in or appointed to his position. All persons residing outside the city and county claiming the benefit of this provision and who are not engaged on such utility work outside of the limits of the city and county shall be allowed a reasonable time, not exceeding one year, to become residents of the city and county.

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor shall be eight hours, to be completed within ten consecutive hours; there shall be one day of rest in each week of seven days; all labor performed in excess of eight hours in any one day, or six days in any one week, shall be paid for at the rate of time and one-half.

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

The public utilities commission shall have jurisdiction over the airport now being conducted by the City and County of San Francisco, as well as over any other airport which said city and county may hereafter acquire, maintain or operate. All employees, exclusive of the manager, of the present San Francisco airport, who are actually employed at the present airport operated and maintained by the City and County of San Francisco on the effective date of this amendment and who have been continuously so employed for one year immediately preceding said date shall be continued in their respective positions as if appointed thereto after examination and certification from a list of eligibles and shall thereafter be governed by and be subject to the civil service provisions of this charter. All said employees so continued in their respective positions shall be eligible for like positions in any other airport hereafter acquired, maintained or operated by the City and County of San Francisco. [*Amended, 1940; 1941*]

"In effect section 125 provides that if one has been employed for one year in an acquired utility such employee shall be deemed appointed to such position and entitled to 'all benefits' of the service under the municipality. 'Such position' if not the identical position should be interpreted as meaning a similar position in kind and degree—one that in salary, authority, duties, etc., is reasonably comparable to the employee's former position. If no comparable position exists then it appears that 'such position' by the terms of the charter is 'continued.' The 'position' in the private utility is adopted as a city position. The legislative or administrative means of continuing the employee in his position is a mechanical problem subordinate to the declaration in the freeholders' charter that he 'shall be continued' in his position." **Handlon v. Wolff** (1945) 72 Cal. App. (2d) 53, 164 Pac. (2d) 46. Quoted by Peters, P. J., dissenting in **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

The provision that employees of the municipal airport shall be appointed by and hold office at the pleasure of the Manager of Utilities, did not apply to an employee of the Bureau of Engineering of the former Department of Public Works, although his employment was centered mainly on the airport. **Archer v. Civil Service Commission** (1934) 1 Cal. (2d) 357, 34 Pac. (2d) 1023.

Cited Without Particular Application. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Employments—Public Utilities to Be Acquired by Lease or Other Temporary Arrangement

Section 125.1. All persons employed in the operating service of any public utility hereafter acquired by lease or under any other temporary arrangement, under which the city acquires the right to operate said utility, shall be continued in their respective positions and shall be deemed appointed to such positions under, and entitled to all, the benefits of the civil service provisions of this charter for the period of time during which the city shall continue to operate said utility under said lease or other temporary arrangement. Should the city permanently acquire said utility, said persons shall come into the permanent employ of the city and county in their respective positions and shall be deemed permanently appointed thereto under the civil service provisions of the charter and shall be entitled to all the benefits thereof, all subject to the provisions contained in section 125 of the charter; provided, however, that said employees who are taken over into the employ of the city under said lease or other temporary arrangement shall not be subject to the residential qualifications of the charter, during the term of said lease or other temporary arrangement. All employees of any such utility, acquired or operated by the city under any lease or other temporary arrangement, who come into the employ of said utility after the temporary acquisition of same, shall be subject to the civil service provisions of the charter. The civil service rights of any person who comes into the service of the city under any lease or other temporary arrangement for the acquisition and operation of said utility shall cease and terminate upon the expiration of said lease or other temporary arrangement. [*New section, 1941*]

Legal Work of Commission

Section 126. The city attorney, as the legal adviser of the commission, may, with the approval of the commission, compromise, settle or dismiss any litigation or proceedings which may be pending for or on behalf of or against said commission relative to any matter or property under its jurisdiction. He shall detail to the commission such attorneys as the commission may deem necessary, subject to the approval of the commission as to each such attorney or assistant so assigned. The commission shall have authority, subject to the approval of the mayor, to appoint special counsel for temporary purposes. The compensation of all such attorneys shall be paid by the commission from the revenues of the utilities under its jurisdiction.

Operating Expenses and Reserves

SECTION 127. Receipts from each utility operated by the commission shall be paid into the city and county treasury and maintained in a separate fund for each such utility. Appropriations from such funds shall be made for the following purposes for each such utility in the order named, viz: (a) for the payment of operating expenses, pension charges, and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require; (b) for repairs and maintenance; (c) for reconstruction and replacements as hereinafter described; (d) for the payment of interest and sinking funds on the bonds issued for acquisition, construction or extensions; (e) for extensions and improvements, and (f) for a surplus fund. [*Amended, 1937*]

The City could properly appropriate a sum of money from the unappropriated balance of the Hetch Hetchy Power Division to defray traveling and per diem expenses of its representatives in appearing before a Congressional Committee at Washington to advocate an amendment of the Raker Act so as to permit the sale by the City to a public corporation of electric power for resale to the people of the City. **Powell v. San Francisco** (1944) 62 Cal. App. (2d) 291, 144 Pac. (2d) 617.

The expenditure of municipal funds to pay the expenses of a committee to appear before the Congress to urge an amendment to the Raker Act, so as to enable the City and County to sell electric power to a public utility corporation for resale to the people of San Francisco is not against public policy. (See Deering's Gen. Laws, Act 4276, § 1.) **Powell v. San Francisco** (1944) 62 Cal. App. (2d) 291, 144 Pac. (2d) 617.

In the provision authorizing expenditure from a fund for a utility "for the payment of operating expenses," the term "operating expenses" is not confined to maintenance, and includes an expense for an appearance by a committee before the Congress to urge an amendment to the Raker Act, approving the continuance of an existing contract between the municipality and the Pacific Gas and Electric Company. **Powell v. San Francisco** (1944) 62 Cal. App. (2d) 291, 144 Pac. (2d) 617.

Art. xii, § 16 of the old Charter, authorizing an expenditure of funds of the municipal railway system for "extension or improvement" of the municipal system did not authorize an expenditure for the purpose of investigating the condition and availability of part or all of another street railway with a view to its purchase. **Mobley v. Board of Public Works** (1919) 44 Cal. App. 167, 186 Pac. 412, per opinion of Supreme Court in denying a hearing.

A complaint seeking the return of money paid to a supervisor who had made an advancement to cover expenses of officers to and from Washington, D. C., to urge the Secretary of the Interior to approve a sale of products of Hetch Hetchy project to a private corporation, held not to state a cause of action. **O'Connell v. San Francisco** (1928) 204 Cal. 1, 266 Pac. 1118.

Depreciation

SECTION 128. For the purpose of computing net income, the commission, on the basis of an appraisal of the estimated life and the then current depreciated value of the several classes of property in each utility, shall determine the amount of reasonable annual depreciation for each utility. During the fiscal year 1937-1938 and at least every five years thereafter, the commission shall make an appraisal or may revise the last preceding appraisal of the value and probable useful life of each of the several classes of property of each utility, and shall, on the basis of said appraisal, redetermine the amount of the reasonable annual depreciation for each utility. [*Amended, 1937*]

See **Powell v. San Francisco**, § 127.

Reconstruction and Replacements

SECTION 128.1. For the purpose of providing funds for reconstruction and replacements due to physical and functional depreciation of each of the utilities under the jurisdiction of the commission, the commission must create and maintain a reconstruction and replacement fund for each such utility, sufficient for the purposes mentioned in this section, and in accordance with an established practice for utilities of similar character, which shall be the basis for the amount necessary to be appropriated annually to provide for said reconstruction and replacements. [*New section, 1937*]

The provisions authorizing a fund for reconstruction and replacements due to physical and "functional depreciation" of utilities, includes replacement of parts due to obsolescence and inadequacy as well as to complete decay. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Under § 77, authorizing transfer and use of a surplus for another purpose within a department, and § 128.1, authorizing creation of a fund for reconstruction and replacements due to functional depreciation of utilities, a surplus of the municipal railway and reconstruction and replacement fund may be expended for services of a civil engineer to make surveys and reports with respect to traffic and transit conditions, and extensions and improvements of the municipal railway. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036, distinguishing **Mobley v. Board of Public Works** (1919) 44 Cal. App. 167, 186 Pac. 412.

Utility Surpluses

SECTION 129. If any accumulation in the surplus fund of any utility shall, in any fiscal year, exceed twenty-five per cent of the total expenditures of such utility for operation, repairs and maintenance for the preceding fiscal year, such excess may be transferred by the board of supervisors to the general fund of the city and county, and such amount shall be deposited by the commission with the treasurer to the credit of such general fund.

See Powell v. San Francisco, § 127.

Rates

SECTION 130. The commission shall have power to fix, change and adjust rates, charges or fares for the furnishing of service by any utility under its jurisdiction, and to collect by appropriate means all amounts due for said service, and to discontinue service to delinquent consumers and to settle and adjust claims arising out of the operation of any said utilities.

Rates may be fixed at varying scales for different classes of service or consumers. The commission may provide for the rendition of utility service outside the limits of the city and county and the rates to be charged therefor which may include proportionate compensation for interest during the construction of the utility rendering such service.

Before adopting or revising any schedule of rates or fares, the commission shall publish in the official newspaper of the city and county for five days notice of its intention so to do and shall fix a time for a public hearing or hearings thereon, which shall be not less than ten days after the last publication of said notice, and at which any resident may present his objection to or views on the proposed schedule of rates, fares or charges.

Rates for each utility shall be so fixed that the revenue therefrom shall be sufficient to pay, for at least the succeeding fiscal year, all expenses of every kind and nature incident to the operation and maintenance of said utility, together with the interest and sinking fund for any bonds issued for the acquisition, construction or extension of said utility; provided that, should the commission propose a schedule of rates, charges or fares for said utility which shall not produce such revenue, it may do so with the approval of the board of supervisors, by a two-thirds vote and it shall thereupon be incumbent to provide by tax levy for the additional amount necessary to meet such deficit. All other changes in rates, charges or fares as proposed by the commission shall be submitted by the commission to the board of supervisors for approval, and, except as in this section otherwise provided, it shall require a two-thirds vote of the board of supervisors to reject the rate changes as proposed by the commission, and if so rejected, such proposed changes in schedules of rates, charges or fares shall be returned to the commission for revision. If the supervisors shall fail to act on any such proposed schedule within thirty days, the schedule shall thereupon become effective.

Municipalities engaged in proprietary activities are subject to nondiscriminatory Federal regulatory or taxing statutes as to such activities in common with all others so engaged. **Bowles v. San Francisco** (1946) 64 Fed. Supp. 609.

The Stabilization Act of 1942 (50 U.S.C.A., Appendix, § 961) forbidding any common carrier or public utility from putting into effect a general increase in rates unless it gives 30 days' notice to the President or his designated agency and consents to timely intervention of such agency before the authority having jurisdiction to consider the increase, was not complied with where notice to the agency was given after the Public Utilities Commission had made its decision and the Board of Supervisors had had two hearings on the question, and where before the date specified in the notice the Supervisors had made its decision and the hearing specified for that day was to consider merely the time to order the new rates into effect. **Bowles v. San Francisco** (1946) 64 Fed. Supp. 609.

PUBLIC UTILITIES AND FRANCHISES

(Continued)

Street Railway 25-Year Operating Permit

SECTION 131. Any person, firm or corporation, hereinafter called declarant, engaged in operating a street railway in the City and County of San Francisco, may, at any time within twelve months after this section takes effect, make and file with the clerk of the board of supervisors of said city and county a written declaration of surrender to the City and County of San Francisco of all rights, franchises, privileges, permits or resolutions theretofore granted to or held by declarant, or its predecessors in interest, to operate said street railway under said rights, franchises, privileges, permits and resolutions over the streets, avenues and highways in the City and County of San Francisco set forth in said declaration of surrender, and, in consideration and by reason thereof, declarant shall, upon making and filing such declaration of surrender as aforesaid, immediately and automatically by operation of law and without further act on the part of such declarant or by the city and county, have and hold, in place thereof, an operating permit from the city and county giving and granting unto such declarant, its successors or assigns, the right, until such operating permit is revoked in the manner hereinafter set forth, to operate its cars by means of the overhead electric system, by cables running under the ground and moved by stationary engines, or electric motors, or by such other means as the law may permit, and buses, over the streets and highways in the city and county set forth and enumerated in said declaration of surrender, whether under then existing franchises, or otherwise, and to conduct in the city and county the same railway business theretofore conducted therein by such declarant and, for that purpose, to have the use of the streets, roads, highways, and avenues in the city and county and of the same, or like tracks, roadbeds, and other structures and rights of way therein, but upon all the terms and conditions contained in the rights, franchises, privileges, permits and resolutions existing as of February 15, 1929, and in the orders, resolutions and ordinances referred to in such declaration of surrender except that the term or condition as to the period of duration of any right, franchise, privilege, permit or resolution applicable to any operating permit or to any right thereunder, shall be for twenty-five years from the date of the filing of the declaration of surrender by declarant herein referred to. Said permit shall apply only to streets, avenues or highways over which the declarant operated its railway at any time during the year 1930.

The provisions of this section shall not apply to the franchises granted under the following named ordinances of the city and county, namely, Ordinance Number 288 (New Series) approved October 17, 1907, and Ordinance Number 425 (New Series) approved May 12, 1908, commonly known as the Parkside franchises, and Ordinance Number 1196 (New Series) approved June 14, 1910, commonly known as the Gough Street franchise, and Ordinance Number 1460 (New Series) approved January 23, 1911, commonly known as the Parnassus and Ninth Avenue franchise, nor to that portion of the franchise granted under Order Number 1532, approved November 28, 1879, for the operation of a railway on Howard street from Steuart street to Twenty-sixth street, nor to that portion of the franchises granted under Order Number 1890, approved December 27, 1886, for the operation of a railway commencing at the intersection of Post street with Market street, thence along and upon Post street to Leavenworth street.

Such declaration of surrender shall be executed by the declarant and acknowledged and certified in the manner provided by law for the conveyances of real property. Upon the presentation to the clerk of the board of supervisors of such declaration of surrender executed, acknowledged and certified, as aforesaid, it shall be the duty of the clerk of the board of supervisors to file the same and to endorse thereon the fact and date of such filing and to sign such endorsement and to deliver to the declarant a true and correct copy of such declaration of surrender so filed with him, with his certificate attached thereto signed by him and attested by the seal of the city and county to the effect that the same is a true and correct copy of the declaration of surrender so filed with him and stating therein the date of such filing and the name of the declarant executing such declaration and such certificate shall be conclusive evidence of the facts therein recited.

Every permit, given and granted as in this section provided, shall be for the period of twenty-five years, as hereinbefore stated, and shall be subject always to the right of the city and county at any time to acquire and possess the operative railway property of the holder of said permit upon paying the fair value therefor, hereinafter referred to as compensation.

The compensation to be paid for the property to be acquired, as aforesaid, shall be fixed and determined by agreement by and between the owner of such property and the board of supervisors, authorized by ordinance, or by the owner of such property and any other governmental body with legal and proper authority, and, in case of their failure to agree, the said compensation to be paid as aforesaid shall be fixed in any manner provided by law, whether by condemnation proceedings in the exercise of the power of eminent domain or otherwise. The compensation herein referred to shall not include any claim for going concern value or any other like intangible by any declarant.

Whenever the city and county desires to acquire said railway property, the city and county shall give the holder of said permit written notice, duly authorized by ordinance, of its intention to take over and acquire said properties on a date to be stated in said notice, but in no event less than three months nor more than fifteen months from the date of said notice; and, upon payment or tender of said compensation on the date so noticed, together with compensation for the cost, less accrued depreciation, of any additions or betterments to said property since the date of filing said declaration of surrender, said permit shall be thereby revoked and the holder thereof shall immediately deliver said property to the city and county, and transfer the same by appropriate deeds of grant, bargain and sale, and other assurances of title.

Failure of the city and county to pay or tender said compensation, as aforesaid, shall not prevent said city and county from thereafter, at such time as it shall deem proper, taking proceedings to purchase, acquire and possess said operative properties, as in this section provided.

None of the provisions of this charter concerning or relating to the granting of franchises to operate street railways shall be applicable to the permits given and granted under the provisions of this section or under the provisions of section 132 of this charter or to any right thereunder, it being the purpose and intention of said two sections to provide for permits and rights thereunder which can be used and exercised by the holder thereof, its successors or assigns, without reference to any of the terms or conditions under which franchises may be granted under this charter, until such time as the city and county shall purchase, take over and acquire the operative railway property of such holder.

Proceedings to review order of Railroad Commission reducing to six cents the street car fare chargeable by the Market Street Railway Company operating under a 25-year permit; see **Market Street Ry. Co. v. Railroad Commission** (1944) 24 Cal. (2d) 378, 150 Pac. (2d) 196, affirmed (1945) 324 U. S. 548, 65 S. Ct. 770, 89 L. Ed. 1171, rehearing denied (1945) 324 U. S. 890, 65 S. Ct. 1020, 89 L. Ed. 1438.

Ordinances prohibiting one-man street cars (Ordinance 581 New Series, and 4679 New Series) held valid. **San Francisco v. Market Street Ry. Co.** (1938) 98 Fed. (2d) 628.

Street Railway Extensions and Abandonments

SECTION 132. The board of supervisors shall have power to grant by ordinance to any holder of a permit, secured as provided in section 131 of this charter, supplemental permits authorizing such holder, its successors or assigns, to construct and operate in conjunction with its existing lines upon, over or under any of the streets, roads, highways, and avenues of the city and county, an extension or extensions of an existing street railway or bus line in the same manner and subject to the same terms and conditions under which said line from which it is proposed to make the extension, is operated, when such supplemental permit is granted. Every such supplemental permit shall expire concurrently with the permits granted upon the filing of the declaration of surrender provided in section 131 of this charter, and shall be subject always to the aforesaid right of the city and county to acquire and possess the operative railway property of the holder of such supplemental permit as provided in section 131 of this charter. No line of street railway in the city and county, or any portion thereof, operated under authority of any permit, authorized by the provisions of this charter, shall be abandoned unless the holder of such permit shall, by written petition to the board of supervisors, request authority to make such abandonment, and unless the board of supervisors, upon receiving such a petition, shall authorize such abandonment by ordinance and shall first find that the public interest will not be injured or suffer by such abandonment and shall so recite in the ordinance authorizing such abandonment.

See **San Francisco v. Market Street Ry. Co.**, § 131.

Abandonment of Street Car or Other Transportation Service

SECTION 132.1. In the event of the unification, consolidation or merger of the San Francisco Municipal Railway with any privately owned street railway system or with any portion or facility thereof, no line of street railway, bus line, trolley bus line or cable car line, or any portion thereof, which is now or will be owned by the City and County of San Francisco and is now or will be operated by the public utilities commission, shall be abandoned nor shall the service be discontinued thereon except upon recommendation by the public utilities commission, in writing, to the board of supervisors. The recommendation of the public utilities commission shall be acted upon by the board of supervisors within thirty days from the receipt thereof. For the purpose of hearing such recommendation a public hearing shall be held. If the said recommendation is disapproved by at least nine votes it shall not become effective and such service shall be continued. If said recommendation is not disapproved by nine votes of said board the recommendation shall become effective forthwith. Failure of the board of supervisors to act on said recommendation within thirty days shall be deemed as the approval of said recommendation of the public utilities commission; provided that the public utilities commission may without reference or recommendation to the board of supervisors abandon or discontinue service on any line of street railway, bus line, trolley bus line, or cable car line, or any portion thereof, which has been in operation for less than one year next immediately preceding such order of abandonment or discontinuance. [*New section, 1943*]

Regulation of Street Railways

SECTION 133. The public utilities commission, subject to the provisions, limitations and restrictions in this charter contained, shall have power to regulate street railroads, cars and tracks; to permit two or more lines of street railways operating under different management to use the same street, each paying an equal portion for the construction and repair of the tracks and appurtenances used by the said railways jointly for such number of blocks consecutively, not exceeding ten blocks; to regulate rates of speed and propose such ordinances to the board of supervisors as are necessary to protect the public from danger or inconvenience in the operation of such roads.

§ 133

No person, firm or corporation shall ever be granted the exclusive right to operate a street or other railroad through, in or under any tunnel, subway or viaduct constructed or acquired by the levy, in whole or in part, of special assessment upon private property for such construction or acquisition. Two or more lines of street railways operated under different management may use such tunnel, subway or viaduct for the entire length thereof and for five consecutive blocks approaching each end thereof, each management paying an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly. The city and county in the operation of a municipal railway may use any such tunnel, subway or viaduct either singly or jointly with any privately operated railway for the entire length thereof and for any number of blocks approaching each end thereof; and in case of joint use of tracks, shall pay an equal portion of the expense for the construction, maintenance and repairs of the tracks and appurtenances used by said railways jointly.

SCHOOLS

Board of Education

Section 134. All of the public schools of the school district of the city and county shall be under the control and management of a board of education, composed of seven commissioners, who shall be nominated by the mayor and be subject to confirmation or rejection by vote of the electors as in this section provided, and who shall be subject to recall, and to suspensions and removal in the same manner as elective officers, as provided by this charter. The term of each member shall be five years, commencing on the 8th day of January following their respective nominations, provided that each such five-year term shall begin at the expiration of the respective terms of members as existing at the time this charter shall go into effect. The compensation of each member shall be one hundred dollars ($100) per month.

Nominations of members of the board of education shall be made, subject to confirmation by the electors, by the filing by the mayor, with the registrar of voters between the first and the tenth day of September in each year prior to the expiration of the term or terms of members, the name of one qualified citizen, or two, as the case may be, to serve as a member or members, respectively, of said board for the regular term or terms commencing on the 8th day of January in the succeeding year.

The form of ballot shall be as provided in section 184 of this charter and if a majority of the qualified electors voting on said nomination or nominations shall vote in favor thereof, said nomination shall be confirmed and the person or persons named shall take office on the 8th day of January next following. If a majority of the electors vote "No," the nomination shall stand rejected, and such person shall not be eligible for nomination as a member of the board of education for a period of at least three years. If a majority of the electors vote "No," the mayor shall appoint a qualified citizen to serve as a member of the board until the 8th day of January following the next general election or general municipal election, whichever shall first be held. Between the first and tenth day of September before such general election or general municipal election, the mayor shall nominate, subject to confirmation by the electors at such election, as herein provided, a qualified citizen to serve as a member of the board for the remainder of the five-year term for which the nomination first made by the mayor was rejected. Vacancies otherwise occurring on said board shall be filled by the mayor for the unexpired terms. [*Amended, 1947; 1952*]

While as a matter of tenure and compensation, which are matters which may be regulated by the Charter, members of the Board of Education may be treated as municipal officers, yet such members after induction into office become officers of a political subdivision of the state, separate and distinct from the municipality within whose boundary the school district is located. **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

In view of the fact that §§ 134 to 139, both inclusive, contain no provision dealing with residential requirements of members of the school department, and of the further fact that § 7 makes no mention of school department employees, employment by the Board of Education of persons who reside outside the limits of the City and County does not violate the Charter. **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

Powers and Duties of Board of Education

SECTION 135. In addition to the powers conferred by the general laws of the state and other provisions of this charter, the board of education shall have power to establish and maintain such schools as are authorized by the laws of the state as the board may determine, and to change, modify, consolidate or discontinue the same as the public welfare may require.

The board shall also have power to employ such teachers and other persons as may be necessary to carry into effect its powers and duties; to fix, alter and approve their salaries and compensations, except as in this charter otherwise provided, and to withhold for good and sufficient cause the whole or any part of the wages, salary, or compensation of any person or persons employed as aforesaid; and to promote, transfer and dismiss teachers, but no teacher shall be dismissed from the department except for insubordination, immoral or unprofessional conduct, or evident unfitness for teaching. Appointment, promotion, assignment and transfer of deputy superintendents, principals, assistants, teachers and all other certificated employees shall be made by the board of education upon the recommendation of the superintendent of schools. All promotions of teachers shall be based solely on merit. Nothing in this section shall be construed to prevent the board from removing teachers as provided in this charter and the laws of the state. Charges against teachers must be made in writing by the superintendent after investigation and shall be finally passed upon by the board after giving the accused teacher a fair and impartial hearing before said board.

All teachers, heads of departments, vice-principals, principals, supervisors and directors shall be classified as permanent employees in their respective positions after they have been successfully employed in such positions in the school department for a probationary period of three years. In the absence of any action to the contrary by the board of education at the end of the third year of such employment, the classification shall be considered as permanent. A deputy superintendent shall be classified as a permanent employee in such position in the school department in which he was permanently employed immediately prior to his appointment as deputy.

Non-teaching and non-technical positions, and positions not required by law to be filled by a person holding a teaching or other certificate as required by law, shall be employed under the civil service provisions of this charter and the compensations of such persons shall be fixed in accordance with the salary standardization provisions of this charter.

The board of education shall have power to grant and to renew, and, for insubordination, immoral or unprofessional conduct or unfitness for teaching, to revoke teachers' certificates.

The board shall establish regulations subject to the approval of the controller for the disbursement of all moneys belonging to the school department or the school fund or funds, and to secure strict accountability in the expenditure thereof, and to provide for the prompt payment of all salaries due and allowed to officers, teachers and other employees of the school department.

Notwithstanding any other provision of this charter to the contrary, the board of education of the San Francisco Unified School District may authorize payment of the annual compensation of certificated employees in twelve equal payments, the first such equal payment being made on or before the 5th day of August of each school year, and continuing each month thereafter until the full annual compensation shall be paid, provided that the last equal payment shall be made not later than the 5th day of July of the succeeding school year, and provided further that in the event that the certificated employee for any reason does not perform the full year of service, said certificated employee shall receive only such amount as is authorized by the school code of the State of California. In the event said certificated employee has been paid an amount greater than such employee is entitled to receive under the provisions of the school code of the State of California, said certificated employee shall be liable therefor and within thirty days after such excess payment said certificated employee shall reimburse the San Francisco Unified School District for the excess, and said certificated employee shall not be paid any of his retirement accumulations or credits until the San Francisco Unified School District has been reimbursed for the said excess.

The board shall, between the 1st and 21st days of May of each year, adopt a schedule of salaries for the next ensuing fiscal year for teachers and other employees of the school department. Compensations of non-teaching and non-technical employees shall be fixed in accordance with the salary standardization provisions of this charter. [*Amended, 1943*]

The Charter provisions relating to the tenure of school principals are not in conflict with the general laws and are constitutional. **Anderson v. Board of Education** (1932) 126 Cal. App. 514, 15 Pac. (2d) 774, 16 Pac. (2d) 272.

The contract of employment is the governing factor in determining the question of tenure. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698, citing **Wood v. Los Angeles City School Dist.** (1935) 6 Cal. App. (2d) 400, 44 Pac. (2d) 644.

Permanency in the employment of school principals may be desirable in a school district which is coterminous with the boundaries of a chartered city, though in many of the smaller districts it may be impractical to place principals in such classifications. **Anderson v. Board of Education** (1932) 126 Cal. App. 514, 15 Pac. (2d) 774, 16 Pac. (2d) 272, quoted on this point in **Work v. Central Union High School Dist.** (1935) 6 Cal. App. (2d) 626, 44 Pac. (2d) 1047.

A principal in an evening school, who served in that capacity for more than the probationary three-year period prior to his dismissal without cause and without charges or hearing, was entitled to a writ of mandate compelling the Board of Education to restore him to his position as principal. **Anderson v. Board of Education** (1932) 126 Cal. App. 514, 15 Pac. (2d) 774, 16 Pac. (2d) 272.

A teacher who was employed as principal of a school for two years only prior to her dismissal on consolidation of the school with another did not acquire tenure as principal, notwithstanding she may have performed all the duties and functions of principal for a

period of three years preceding that event. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698.

A school principal who is dismissed on consolidation of the school with another is not in position to complain that the consolidation was made for the purpose of defeating her permanency of principal-teacher where at the time of the consolidation she has not acquired such permanency. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698.

Vice-Principals.—Under Pol. Code, § 1793, prior to its repeal in 1929, one elected without time limitation as vice-principal acquired a permanent tenure precluding the Board of Education from dismissing her as such without cause and retaining her as a teacher merely. This is consonant with this section of the Charter extending permanent tenure to vice-principals. **Klein v. Board of Education** (1934) 1 Cal. (2d) 706, 37 Pac. (2d) 74.

A class room teacher in two schools in the same district, who for more than three years prior to his dismissal served in that capacity as instructor in day classes in one school and night classes in the other, acquired a permanent tenure both under the tenure provisions of the then existing State School Code and of the city Charter, and, where dismissed without cause and without charges or hearing, was entitled to a writ of mandate compelling the Board of Education to restore him to his position as teacher. **Cullen v. Board of Education** (1932) 126 Cal. App. 510, 15 Pac. (2d) 227.

The school board is not estopped to deny that a school teacher was a principal during the three years prior to her dismissal, and entitled to tenure as such, merely because she may have performed the duties and received the salary of principal during that period, where her employment for the first of the three years was in a capacity other than that of principal. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698, distinguishing **Briney v. Santa Ana High School Dist.** (1933) 131 Cal. App. 357, 21 Pac. (2d) 610.

In mandamus to require reinstatement of petitioner as vice president and dean of women in a junior college, a contention of defendants that petitioner had acquired no tenure under this section was said by the court to be "not without merit" but it was not necessary to pass upon the point as the case was disposed of on another ground. **Leonard v. Board of Education** (1940) 36 Cal. App. (2d) 595, 97 Pac. (2d) 1032, citing **Unruh v. Piedmont High School Dist.** (1935) 4 Cal. App. (2d) 390, 41 Pac. (2d) 212.

See 21 California Law Review, p. 400.

Non-Certificated Employees, in Public School Cafeterias, With Certain Exceptions, Subject to Civil Service

SECTION 135.1. All non-certificated public school cafeteria employees of the San Francisco Unified School District, except those holding part-time positions for which the total compensation is less than $80.00 per month, who are citizens of the United States and who have been residents of the City and County of San Francisco for at least one year immediately prior to the ratification of this section by the legislature of the State of California, and who have been continuously so employed for such days as the schools are in session from January 1, 1948, up to and including the date of the ratification of this section by the legislature, shall be continued in such employ in positions to which allocated by the civil service commission as if appointed thereto after examination and certification from a civil service list of eligibles, and thereafter occupants of all such positions shall be governed by and shall be subject to the civil service and other provisions of this charter. [*New section, 1949*]

Superintendent of Schools

SECTION 136. The superintendent of schools shall be the executive officer of the board of education. He shall be appointed by said board to serve for a term of four years and he shall receive an annual salary of $10,000 unless an increase in said salary shall be fixed by the board of education and approved by the board of supervisors.

During his term of office the superintendent may be removed from his office, as in this section hereinafter provided, for misconduct or incompetency after charges setting forth the nature and character of said misconduct or incompetency are filed against the said superintendent. Said charges must be in writing and shall be signed by at least two members of the board of education. A copy of said charges, together with a notice of the time and place of the hearing on the same, shall within five days after the filing of the same be served upon the said superintendent. The mailing of a copy of said charges, with notice of time and place of hearing on the same, by United States registered mail, with the proper amount of postage prepaid thereon, addressed to said superintendent at his last known place of residence, shall be deemed to be a service of said charges as provided for in this section. A public hearing on said charges shall be had by the board of education not less than ten, nor more than twenty, days after the filing of said charges, provided that full power and authority is hereby given to the board of education to continue said hearing from time to time not to exceed sixty days from the commencement thereof, provided that for good cause said board may grant a further continuance on said hearing. The superintendent shall have the right to answer said charges, to appear at the hearing thereof and to be represented by counsel thereat for the purpose of defending himself against said charges. Pending the determination of said charges, the superintendent may be suspended from his office by a majority vote of the board of education, and the board may appoint a qualified person to discharge the duties of said superintendent during the period of suspension. If the board of education after hearing said charges shall by a two-thirds vote of all the members, determine that said charges have been sustained, it may by the same vote remove said superintendent from his office. No member of the board shall be entitled to vote on the removal of said superintendent unless he or she has been present at the entire hearing of such charges, provided that any member of the board who has not been present may vote for the removal of the superintendent, if such member has read a transcript of all the testimony taken on said hearing during his absence therefrom, and shall file with the board an affidavit to this effect. If said charges are not sustained by a two-thirds vote of all the members of said board, or if after said charges are sustained, the superintendent is not removed from office as a result thereof, said superintendent shall be reinstated in his position and shall be allowed his salary for the time that he has been under suspension, together with the costs of defending himself against said charges, including a reasonable fee for his attorney to be fixed and allowed by the board. If the charges are sustained, and as a result thereof said superintendent is removed from office, no further salary shall be allowed to said superintendent from the date of his suspension. In the hearing and determination of said charges filed against said superintendent, the judgment of said board of education shall be final unless in determining the sufficiency of said charges said board of education commits a clear abuse of discretion.

The superintendent shall have the powers and duties specified by this charter for department heads, in addition to such powers and duties as are fixed by general law.

The positions of superintendent and associate and assistant superintendents shall be held only by persons of expert or technical training, but shall not be subject to any provisions of this charter prescribing a residence qualification for officers or appointees, provided however, that during their incumbency appointees to such positions shall reside in the city and county, and in case any appointee shall fail so to do, his appointment shall at once be revoked by the board.

The superintendent may appoint a confidential secretary who shall hold office at his pleasure. [*Amended, 1943; 1952*]

SECTION 137. [*Repealed; 1952*]

SECTION 138. [*Repealed; 1952*]

SECTION 139. [*Repealed; 1952*]

SCHOOLS
(Continued)
Superintendent of Schools

SECTION 136. The superintendent of schools shall be the executive officer of the board of education. He shall be appointed by said board to serve for a term of four years and he shall receive an annual salary of $10,000 unless an increase in said salary shall be fixed by the board of education and approved by the board of supervisors. The incumbent in the office of superintendent on the 1st day of July, 1942, shall continue to serve at the pleasure of the board.

During his term of office the superintendent may be removed from his office, as in this section hereinafter provided, for misconduct or incompetency after charges setting forth the nature and character of said misconduct or incompetency are filed against the said superintendent. Said charges must be in writing and shall be signed by at least two members of the board of education. A copy of said charges, together with a notice of the time and place of the hearing on the same, shall within five days after the filing of the same be served upon the said superintendent. The mailing of a copy of said charges, with notice of time and place of hearing on the same, by United States registered mail, with the proper amount of postage prepaid thereon, addressed to said superintendent at his last known place of residence, shall be deemed to be a service of said charges as provided for in this section. A public hearing on said charges shall be had by the board of education not less than ten, nor more than twenty, days after the filing of said charges, provided that full power and authority is hereby given to the board of education to continue said hearing from time to time not to exceed sixty days from the commencement thereof, provided that for good cause said board may grant a further continuance on said hearing. The superintendent shall have the right to answer said charges, to appear at the hearing thereof and to be represented by counsel thereat for the purpose of defending himself against said charges. Pending the determination of said charges, the superintendent may be suspended from his office by a majority vote of the board of education, and the board may appoint a qualified person to discharge the duties of said superintendent during the period of suspension. If the board of education after hearing said charges shall by a two-thirds vote of all the members, determine that said charges have been sustained, it may by the same vote remove said superintendent from his office. No member of the board shall be entitled to vote on the removal of said superintendent unless he or she has been present at the entire hearing of such charges, provided that any member of the board who has not been present may vote for the removal of the superintendent, if such member has read a transcript of all the testimony taken on said hearing during his absence therefrom, and shall file with the board an affidavit to this effect. If said charges are not sustained by a two-thirds vote of all the members of said board, or if after said charges are sustained, the superintendent is not removed from office as a result thereof, said superintendent shall be reinstated in his position and shall be allowed his salary for the time that he has been under suspension, together with the costs of defending himself against said charges, including a reasonable fee for his attorney to be fixed and allowed by the board. If the charges are sustained, and as a result thereof said superintendent is removed from office, no further salary shall be allowed to said superintendent from the date of his suspension. In the hearing and determination of said charges filed against said superintendent, the judgment of said board of education shall be final unless in determining the sufficiency of said charges said board of education commits a clear abuse of discretion.

The superintendent shall have the powers and duties specified by this charter for department heads, in addition to such powers and duties as are fixed by general law.

The positions of superintendent and deputy superintendent shall be held only by persons of expert or technical training, but shall not be subject to any provisions of this charter prescribing a residence qualification for officers or appointees, provided however, that during their incumbency appointees to such positions shall reside in the city and county, and in case any appointee shall fail so to do, his appointment shall at once be revoked by the board. [*Amended, 1943*]

Deputy Superintendents

SECTION 137. The superintendent shall appoint such deputy superintendents as shall be authorized by the board of education, and in case of vacancy, such vacancy shall be filled by the superintendent. Such appointments of deputy superintendents shall require the confirmation of the board of education and the appointees shall serve during the pleasure of the superintendent and the board of education. Deputy superintendents shall have had at least five years' experience as teachers. Should it be advantageous to appoint one or more deputy superintendents to supervise a special line of educational work, such appointment may be made regardless of teaching experience by an affirmative vote of five members of the board, but the appointee must have had five years' experience in the line of work which he will be called upon to supervise.

Duties of Superintendent

SECTION 138. In addition to the duties imposed by the general laws of the state, it shall be the duty of the superintendent to observe and enforce the regulations of the board of education and to see that no religious or sectarian books or teachings are allowed in the schools; to report to the board of education annually, on or before the 1st day of October, and at such other times as the board may require, all matters pertaining to the condition and progress of the public schools of the city and county during the fiscal year, with such recommendations as he may deem proper; to inform the board of the condition of schools, school houses and of other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in the city and county and for the care and improvement of the property of the school department; to visit and examine, with the assistance of his deputies, all the schools at least twice a year and determine their condition and needs and to report to the board once a month upon the standing of schools examined by him and his deputies; to recommend rules for the promotion of pupils from grade to grade, from school to school, and for the transfer and graduation of pupils; to recommend to the board the courses of study, the text books and books for supplementary use in the public schools, and the purchase of such apparatus, books, stationery and other classroom supplies as may be required in the schools.

City Board of Examination

SECTION 139. The superintendent and the deputies shall constitute the city board of examination and shall have power to recommend to the board of education the issuance of teachers' certificates in accordance with the laws of the state, and, for immoral or unprofessional conduct, profanity, intemperance or evident unfitness for teaching, to recommend to the board of education the revocation of any certificates previously granted by the board.

CIVIL SERVICE

Civil Service Commission

SECTION 140. There is hereby established a civil service commission which is charged with the duty of providing qualified persons for appointment to the service of the city and county. All appointments in the public service shall be made for the good of the public service and solely upon merit and fitness, as established by appropriate tests, without regard to partisan, political, social or other considerations.

The civil service commission shall consist of three members, appointed by the mayor. The commissioners in office at the time of the adoption of this charter, and this charter section as amended, shall continue in office until the expiration of the terms for which they were appointed, and their successors shall be appointed for terms of six years beginning on the 1st day of July immediately following the expiration of the terms for which they were appointed.

The persons so appointed shall, before taking office, make under oath and file in the office of the county clerk the following declaration: ''I am opposed to appointments to the public service as a reward for political activity and will execute the office of civil service commissioner in the spirit of this declaration.''

A commissioner may be removed only upon charges preferred, in the same manner as in this charter provided for elective officers. Each of the commissioners shall receive a monthly salary of one hundred dollars ($100).

Special meetings of the commission for the purpose of considering and adopting examination questions shall not be open to the public. The regular meetings of the civil service commission shall be open to the public and held at such a time as will give the general public and employees of the city and county adequate time within which to appear before the commission after the regular daily working hours of 8 A. M. to 5 P. M. Such person or persons shall be given an opportunity to be heard by the commission before final action is taken in any case involving such person or persons. [*Amended, 1946*]

The functions of a civil service commission are administrative, ministerial and executive, not legislative, and a charter provision delegating to such a commission power to determine the qualifications of officers is not void as a delegation of legislative power. **Gay-**

lord v. Pasadena (1917) 175 Cal. 433, 166 Pac. 348; **Cornell v. Harris** (1936) 15 Cal. App. (2d) 144, 59 Pac. (2d) 570 (considering the San Diego Charter).

See **Kennedy v. Ross**, § 95; **San Francisco v. Boyd**, § 142; **Dierssen v. Civil Service Commission**, § 141.

Powers and Duties

SECTION 141. The civil service commission shall be the employment and personnel department of the city and county and shall determine appointments on the basis of merit and fitness, as shown by appropriate tests. The commission shall classify, and from time to time may reclassify, in accordance with duties and responsibilities of the employment, and training and experience required, all places of employment in the departments and offices of the city and county not specifically exempted by this charter from the civil service provisions thereof, or which may be created hereafter by general law and not specifically exempted from said civil service provisions. The commission shall likewise classify all other positions or other places of employments in the city and county service specifically exempted from the civil service provisions of this charter, but which, by the provisions of section 151, thereof, are made subject to classification for salary standardization purposes on the basis of duties and responsibilities of the employment, and training and experience required. The civil service commission shall be the judge of such classification.

The commission shall also, in accordance with duties and responsibilities, allocate, and from time to time may reallocate, the positions to the various classes of the classification. The allocation or re-allocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position. No person shall hold a position outside of the classification to which he has been appointed, provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which his chief may temporarily assign him.

The class titles and class numbers assigned to positions by the commission shall be used in all records, reports, statements and communications, including the compensation schedule, annual budget and salary ordinance, payrolls, and appropriation ordinances.

The commission shall adopt rules to carry out the civil service provisions of this charter and, except as otherwise provided in this charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment, or completion of work; the filling of positions, temporary, seasonal and permanent; classification; approval of payrolls; and such other matters as are not in conflict with this charter. The commission may, upon one week's notice, make changes in the rules, which changes shall thereupon be published, and be in force; provided that no such change in rules shall affect a case pending before the commission. The secretary may certify eligibles and payrolls and conduct examinations under the rules of the commission.

The commissioners shall have power to institute and prosecute legal proceedings for violations of any of the civil service provisions of this charter.

The Civil Service Commission derives its power from the Charter.—Cook v. Civil Service Commission (1911) 160 Cal. 598, 117 Pac. 663.

Jurisdiction of the Civil Service Commission is limited, and it can exercise only the power conferred on it or which is necessarily implied. Its power is limited to the administrative functions conferred. **Wheeler v. City of Santa Ana,** 81 ACA, Pac. (2d).

Administration of Appointment Plan.—San Francisco, in the exercise of its plenary power with regard to the method and manner of civil service appointments, has set up a complete scheme for making such appointments and has entrusted the administration of the plan to the Civil Service Commission. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

Under a grant of authority to a civil service board to provide rules and regulations for the keeping of records of employees and for the classification of such employees and a direction to adopt rules and regulations governing the selection and promotion of employees, a civil service board has no authority to adopt a rule providing that while an injured employee receives Workmen's Compensation he shall be paid the difference between his regular salary and the amount of compensation received. **Wheeler v. City of Santa Ana** (1947) 81 ACA 971.

Commission's Rules as To Permanent and Temporary Positions.—Under the express authority conferred upon the commission by this section to adopt rules to govern its action in carrying out this and other civil service provisions of the Charter, and in view of the duties imposed upon it by § 148, it had power to formulate, adopt and apply rule 15 defining permanent and temporary or seasonal positions and providing that appointments to the latter positions expire automatically at the end of five months. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

Commission's rule 15 merely affords a means of procedure for carrying out the mandate of § 148 of the Charter for proper classification by the commission of positions which have been duly created and permanently established in the mode prescribed by Charter.

Villain v. Civil Service Commission (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

The standard of classification of permanent and temporary positions established by the commission's rule 15 is not arbitrary, unreasonable or unjust. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

Rule 15 of the commission does not and could not empower the commission to designate as temporary a position which is neither temporary in fact nor by the law of its creation. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

The commission cannot hold a position, permanent in fact within the meaning of its rule 15 (h), indefinitely under a temporary designation through neglect to make an investigation and declaration of permanency, thereby preventing the appointee from acquiring permanent tenure after serving through the probationary period. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

Power to Determine Qualifications of Examinees.—The Charter confers power on the Civil Service Commission to pass on the qualifications of examinees for positions, not only such qualifications as are disclosed by the examination, but such other qualifications as age, experience, residence, etc. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

In passing on the question of residence of applicants for civil service examinations, the Civil Service Commission is empowered by the Charter to exercise judicial or quasi-judicial power. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

Grounds for Judicial Interference with Appointments.—The Civil Service Commission acts is a quasi-judicial capacity in administering the Charter plan for civil service appointments and its action should not be interfered with by the courts unless it appears that it acted fraudulently, capriciously or arbitrarily, or in violation of the provisions of the Charter. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

The courts cannot inquire whether the charter system of classifying and filling civil service positions is the best one which could have been adopted, since Const., art. xi, § 8½, subd. 4, gives to chartered municipalities plenary power to prescribe in their charters the manner in which, the method by which, the times at which, and the terms for which, its officers and employees shall be elected or appointed. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

A complaint to recover for alleged reductions in compensation predicated on violation of rules adopted pursuant to this section with respect to layoffs or reduction in force, must show that in exercising the power conferred on the Civil Service Commission its rules governing such exercise were violated. **Weigle v. San Francisco** (1937) 23 Cal. App. (2d) 274, 72 Pac. (2d) 902.

One who held a civil service position as assistant keeper in the office of sheriff could not, upon being appointed by the sheriff to perform the duties of head keeper until the vacancy in that position could be filled by a permanent appointment from the civil service list, claim the salary attached to the position of head keeper, since the explicit provision of this section against one holding a position "outside the classification to which he has been appointed" necessarily prohibited the payment to him of compensation outside the rating which determined his civil service status. **Dunn v. Civil Service Commission** (1935) 3 Cal. App. (2d) 554, 40 Pac. (2d) 310.

Discretion of commission as to ranks from which promotions are to be made, see notes under § 146.

CIVIL SERVICE
(Continued)

Positions

SECTION 142. All positions in all departments and offices of the city and county, including positions created by laws of the State of California, where the compensation is paid by the city and county, shall be included in the classified civil service of the city and county, and shall be filled from lists of eligibles prepared by the civil service commission. excepting (1) positions in which attorneys and physicians are employed in their professional capacity to perform only duties included in their professions, but exclusive of any administrative or executive positions for which such professional status constitutes only part of the qualifications therefor; (2) inmate help or student nurses. or part-time services. where the compensation including the value of any allowances in addition thereto is less than eighty dollars ($80) per month; and (3) persons employed in positions outside the city and county upon construction work being performed by the city and county when such positions are exempted from said classified civil service by an order of the civil service commission; and (4) persons employed in positions in any department for expert professional temporary services, and when such positions are exempted from said classified civil service for a specified period of said temporary service. by order of the civil service commission; and (5) such positions as. by other provisions in this charter. are specifically exempted from. or where the appointment is designated as exclusive of. the civil service provisions of this charter.

The civil service rights. acquired by persons under the provisions of the charter superseded by this charter, shall continue under this charter.

Where existing positions that have heretofore been exempt from civil service examinations are now made subject to examination by this charter, the incumbents of such positions who have held such positions for a period of one year continuously next preceding the time that this charter shall go into effect, shall be continued in their positions as if appointed thereto after examination and certification from a list of eligibles and shall be governed thereafter by the provisions of this charter, provided. however. the provisions of this paragraph shall not apply to positions heretofore defined and classified by the civil service commission as "institutional help."

Any person holding a salaried office under the city and county, whether by election or appointment, who shall, during his term of office, hold or retain any other salaried office under the government of the United States, or of this state, or who shall hold any other salaried office connected with the government of the city and county, or who shall become a member of the legislature, shall be deemed to have thereby vacated the office held by him under the city and county. [*Amended, 1933; 1937*]

This section preserves rights acquired under the old Charter and also under the rules enacted pursuant thereto. **Viner v. Civil Service Commission** (1943) 59 Cal. App. (2d) 458, 139 Pac. (2d) 88.

The civil service applies only to persons employed in permanent positions in municipal departments. (§§ 140-145.) **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036; **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Advancement.—The Civil Service Commission cannot by a general resolution provide a different basis of advancement for those who have been in the civil service under the old Charter. **Viner v. Civil Service Commission** (1943) 59 Cal. App. (2d) 458, 139 Pac. (2d) 88.

"Positions" in "departments and offices" of the city, within the provision as to what is included in the classified civil service, connote employment to render services at a salary paid periodically. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

The courts may treat a position as a permanent one within the meaning of the civil service provisions of the Charter where such position actually exists in practice with a reasonable degree of continuity and permanency. **McGillicuddy v. Civil Service Commission** (1933) 133 Cal. App. 782, 24 Pac. (2d) 942; **Powers v. Board of Public Works** (1932) 216 Cal. 546, 15 Pac. (2d) 156.

Trackmen and car repairers regularly appointed from the eligible list to their positions which were neither temporary in fact nor temporary by the law of their creation and who served therein for a period in excess of the maximum probationary period provided in the old Charter acquired civil service rights under that Charter which were protected by § 142 of the new Charter, and where their positions were not abolished they could not be removed without cause and without an opportunity to be heard. **McGillicuddy v. Civil Service Commission** (1933) 133 Cal. App. 782, 24 Pac. (2d) 942, distinguishing **Gilbert v. Civil Service Commission** (1923) 61 Cal. App. 459, 215 Pac. 97, and **Rodrigue v. Rogers** (1906) 4 Cal. App. 257, 87 Pac. 563.

A foreman janitor had no right to promotion to head janitor without examination on the theory that his right acquired under the old Charter was continued under the new where, though he was in the next grade below within the meaning of rule 38 of the Civil Service Commission, rule 35, in force at the time of reclassification of positions and regulating the filling of head janitorial positions under the old Charter, specifically provided that all positions of foreman and subforeman should be separately classified and filled by promotive examination. **Viner v. Civil Service Commission** (1943) 59 Cal. App. (2d) 458, 139 Pac. (2d) 88.

A draftsman employed by the City and County on the Hetch Hetchy Project and whose work was performed in part outside the City and County and in part within the City and County was exempted from civil service examination under the provisions of the old Charter exempting persons employed on public work outside the City and County, and where he held his position as draftsman for a period of one year next preceding the effective date of the new Charter he was entitled to be continued in such position and to receive the salary attached thereto. **Cutting v. McKinley** (1933) Cal. App. 136, 19 Pac. (2d) 507.

An engineering draftsman in the Bureau of Engineering of the Board of Public Works who had for more than one year prior to the effective date of the Charter held a position on a project outside the boundaries of the City and County was blanketed into his position without examination, despite the fact that he did not fulfill the residence requirements of the Charter. **Archer v. Civil Service Commission** (1934) 1 Cal. (2d) 357, 34 Pac. (2d) 1023.

An independent contractor engaged to do a specific professional task, such as a consulting engineer who for a stated consideration agrees to prepare and furnish plans, specifications, estimates, etc., required for a proposed sewage disposal project, and his assistants do not become city employees in either temporary or permanent positions in the sense intended by subd. 4, and an order of exemption by the Civil Service Commission is not required. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

A contract for services of a civil engineer and his assistants over a 5-year period to furnish information relative to transit and traffic conditions does not violate the civil service provisions where the contractor is not to be placed in any position provided for in the Charter and his assistants do not become city employees. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

See **Doerr v. Civil Service Commission,** § 148.

Positions in Treasurer's Office

SECTION 142.1. Any person who has performed the duties of general clerk-stenographer in the office of the treasurer continuously for five years immediately prior to the effective date of this amendment and who on said date shall be performing said duties, is hereby confirmed in said position and thereafter shall hold the same pursuant to the civil service provisions of this charter and shall be entitled to all the benefits and privileges of said provisions. [*New section, 1937*]

Creation of Positions

SECTION 143. Positions in any department or office of the city and county may be created, as provided by this charter, by appropriation ordinance of the board of supervisors. Copy of each such ordinance creating or abolishing positions shall be filed, on the approval thereof, with the civil service commission by the clerk of the board of supervisors. Before the appointing officer shall make recommendation for the creation of any new or additional position in any department or office, he shall request and receive from the commission the proper designation and classification of such position based on the duties and responsibilities thereof, and if such position is included in the classified civil service, the commission may, in writing, express to the appointing officer its opinion as to whether or not such position is needed.

Immediate notice in writing shall be given to the civil service commission by the appointing officer of each department and office of the city and county of the creation or abolition of any position, or of any change in duties if the position is included in the classified civil service, or of any appointment, resignation, suspension, dismissal or other creation of vacancy therein, with the date of any such change. If said appointing officer is also empowered to establish compensation rates or make changes therein, he shall notify the commission of any such rate or change therein. The commission shall maintain a record of all such notifications.

The term ''appointing officer'' as used in this charter shall also include any board or commission in the exercise of its power to appoint a department head or other officer or employee designated by this charter as appointive by such board or commission.

In the provision that the only method for the creation of new positions in any department is by appropriation ordinance, the word "position" is used as embracing both officers and employees. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

See **Kennedy v. Ross,** § 142.

Applications

SECTION 144. Any citizen having the qualifications prescribed by section 7 of this charter may submit himself for any examination under conditions established by the civil service commission. The commission shall advertise in the official paper the time, place and general scope of all examinations for entrance into the public service and may take further appropriate means to interest suitable applicants. When examinations for promotion are to be held, the commission shall give notice thereof to all persons in positions entitling them under the civil service rules, to participate in such examination, by posting information thereof in the office of the commission for a period of ten days and notifying the department concerned.

The Civil Service Commission has authority to require that a civil service examinee must have one year's residence in San Francisco prior to the closing date for filing applications to take an examination. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

CIVIL SERVICE
(Continued)
Qualifications and Tests

Section 145. All applicants for places in the classified service shall submit to tests which shall be competitive, provided, however, that no test in either entrance or promotional examinations shall be deemed to be competitive unless two or more persons shall participate, except that any such examination may be held for one qualified applicant on recommendation of the civil service commission and approval by resolution of the board of supervisors, after a finding by the board that reasonable publicity of the proposed examination has been given by the civil service commission. Such tests shall be without charge to the applicants. The commission shall control all examinations and may employ suitable persons in or out of the public service to act as examiners. The tests may be written, oral, mechanical or physical, or any combination of them, practical in character and related to matters fairly to test the relative capacity of the applicants for the positions to be filled. The commission shall be the sole judge of the adequacy of the tests to rate the capacity of the applicants to perform service for the city and county. The commission may, for each examination, establish a passing mark or may determine the total number of persons who shall constitute the list of eligibles. The commission shall prepare from the returns of the examiners the list of eligibles, arranged in order of relative excellence. No question submitted to applicants shall refer to political or religious opinions or fraternal affiliations.

Applicants for entrance positions in the uniformed forces of the fire and the police department shall be not less than twenty-one years of age, nor more than thirty-five years of age at the time of appointment and shall have the physical qualifications required for enlistment in the United States Army, Navy and Marine Corps.

Applicants for positions in the mechanical trades and occupations may, in the discretion of the commission, be rated solely on experience and physical qualifications which may be demonstrated by such evidence and in such manner as the commission may direct, and such applicants may be submitted to such further tests as the commission may require. Examinations of laborers shall relate only to physical qualifications and experience, and laborers establishing their fitness shall rank upon the register in order of priority of application.

The commission may remove all names from the list of eligibles after they have remained thereon for more than two years and all names thereon shall be removed at the expiration of four years. The commission may, however, provide in the scope-circular of any examination that the list of eligibles secured thereby shall automatically expire at a date not less than two or more than four years after the adoption of such list.

Veterans with thirty days or more actual service, and widows of such veterans, who become eligible for appointment by attaining the passing mark in any entrance examination, shall be allowed an additional credit of five per cent in making up the list of eligibles secured by such examination. The term ''veteran'' as used in this section shall be taken to mean any person who has been mustered into, or served in, the Army, or enlisted in, or served in, the Navy or Marine Corps, of the United States, in time of war and received an honorable discharge or certificate of honorable active service. In the case of promotive examinations, when the passing mark has been attained, a credit of three per cent shall be allowed to veterans or to widows of such veterans when requested by such veterans or widows. When an eligible has secured a permanent appointment from a list of eligibles derived from an entrance examination in which he has been allowed additional credits of five per cent as herein provided, and has served the full probationary period therein as provided in this charter, such other additional credits of five per cent that have been allowed him on lists of eligibles derived from other entrance examinations shall be automatically cancelled, and his rank on such other list or lists revised to accord with his relative standing before such additional credits were added, and he shall not be allowed such additional credits in any other entrance examinations. If he has received a permanent appointment from a list of eligibles derived from a promotive examination in which he has requested and been allowed the additional credits of three per cent as herein provided, and has served the full probationary period therein as provided in this charter, such additional credits of three per cent that have been allowed him on lists of eligibles derived from other promotive examinations shall be automatically cancelled, and his rank on such other list or lists revised to accord with his relative standing before such additional credits were added, and he shall not be allowed such additional credits in any other promotive examinations. The civil service commission may, for services or employment specified by the commission, allow general or individual preference, but not less than ten per cent, for entrance appointment of veterans who have suffered permanent disability in line of duty, provided that such disability would not prevent the proper performance of the duties required under such service, or employment, and provided that such disability is of record in the United States Veterans' Bureau. [*Amended, 1940; 1948*]

Const. art. xi, § 8½ and art. xx, § 16, "had for their sole purpose the validation of civil service provisions in the Charter of San Francisco." **Cornell v. Harris** (1936) 15 Cal. App. (2d) 144, 59 Pac. (2d) 570, quoting opinion of Wilber, J. (later C. J.) in the superior court case of **Norton v. Evans.**

Civil service provisions of a charter have no application to employees of those who contract with the city. **Oakland v. Williams** (1940) 15 Cal. (2d) 542, 103 Pac. (2d) 168.

A contract with a civil engineer for his services over a 5-year period to aid in the solution of traffic and transit problems was not subject to the objection that it violated the Charter in ignoring the civil service and residential provisions. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Municipal court attaches are municipal employees who, as provided in Municipal Court Act, § 6 (see Stats. 1947, ch. 1113) are entitled to the benefits of the civil service provisions of the Charter. See **Slavich v. Walsh** (1947) 82 Cal. App. (2d) ...... 82 ACA 248, ... Pac. (2d) ......, rehearing denied.

Public employees have no vested right in any particular measure of compensation or benefits, and these may be modified or reduced by proper statutory authority. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A. L. R. 838.

Eligible Lists.—After expiration of the civil service list of eligibles for a position by reason of the lapse of the period established by the section, no valid appointment to the position can be made therefrom. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926, citing **Mann v. Tracy** (1921) 185 Cal. 272, 196 Pac. 484; **Jensen v. Civil Service Commission** (1935) 4 Cal. (2d) 334, 49 Pac. (2d) 283.

The Civil Service Commission has no authority to set aside a list of eligible appointees which has been duly adopted in accordance with the provisons of the Charter, except as therein provided. **Cook v. Civil Service Commission** (1911) 160 Cal. 598, 117 Pac. 663, decided under old Charter.

Names of policemen placed on the eligible list under the old Charter could be removed by the commission under the new Charter where the names were on the list for over two years and, since the power of the commission to strike off names after two years was identical under both Charters, the commission did not give the new Charter a retroactive interpretation in thus striking the names. **Jensen v. Civil Service Commission** (1935) 4 Cal. (2d) 334, 49 Pac. (2d) 283.

Examinations.—It was not the intent of the Charter to have courts review the questions and answers of every person who voluntarily submitted for examination as to his qualifications and who had a competitive test that was devoid of prejudice, caprice and arbitrary action, practical in its character, given and determined in entire good faith by persons of a high degree of proficiency. **Mitchell v. McKevitt** (1932) 128 Cal. App. 458, 17 Pac. (2d) 789.

Mandamus will lie to give the proper place on an eligible list after the result of an examination is established, but the writ will not lie to review the decision of the Civil Service Commission as to the correctness of the answers given to questions. **Mitchell v. McKevitt** (1932) 128 Cal. App. 458, 17 Pac. (2d) 789.

A petition for a writ of mandamus to compel placing of petitioner's name as number one on an eligible list is insufficient where it merely alleges that the petitioner took an examination, was placed first on the tentative list, that the commission determined on the filing of a protest that he did not possess residence qualifications, and that the action of the commission was without right and in utter disregard of proofs adduced by the petitioner. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

Emergency measure creating position of police captain, see notes under § 16.

Unless rules promulgated by the Civil Service Commission under powers conferred on it are wholly unreasonable, arbitrary or such an abuse of discretion that they transcend the purpose for which the power was conferred, a court will not substitute its opinion or discretion for that of the commission. **Cotter v. Wolff** (1948) 88 Cal. App. (2d) 382, 198 Pac. (2d) 950.

Charter provisions requiring the Civil Service Commission to prescribe rules for open, competitive examinations to test the relative fitness of applicants, and stating that all examinations shall be impartial and shall deal with the duties and requirements of the position to be filled, and the rules established by the commission pursuant to these charter provisions, permit an evaluation of education, experience and personal fitness as part of the examinations. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

Oral interviews of candidates for a county civil service position satisfy the charter requirement of "open, competitive examinations" for testing the relative fitness of applicants for the position sought, where all candidates are tested for the same personality factors, each candidate pitting his personality traits against those of every other candidate incident to the examiner's process of making comparative evaluations, so that the ratings in consequence of such "open" contest may properly be said to rest on a competitive basis. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

Civil Service examinations must be according to standards making the competition fair to all; but within this general limitation the commission, in working out the problem of measuring the candidate's suitability to the position to be filled, should not be proscribed in adopting a method of selection which it deems best calculated to produce the desired result. **Almassy v. Los Angeles County Civil**

Service Com. (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 746.

While there must be measurable standards established for determining the general proficiency of the candidates for a particular civil service position, the fact that such standards are subjective rather than objective does not prevent the classification of an "oral interview" as a "competitive" examination. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

While a competitive civil service examination envisages an objective standard of grading as far as possible, the practicalities of a particular situation may justify the employment of subjective estimates and the civil service commission reasonably concluded that the oral interview, as distinguished from a test of technical knowledge, was the most appropriate means for evaluating the candidate's personal fitness and appraising his possession of those traits or qualities which it had determined as "necessary and important" to the satisfactory discharge of the duties of the positions in question. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

Where the various aspects of personality factors, as previously determined by a county civil service commission to be "necessary and important" to the position to be filled were itemized for consideration by the examiner as the measuring rod and guide post in his evaluation process as to the personal fitness of a candidate, it could not be said that there was no effective common criterion of base topics underlying the comparitive ratings. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

Under charter provisions and a rule of the Civil Service Commission requiring that a proper record of examinations showing basis of rating be kept when oral tests are used, the precise questions and answers need not be recorded; since the purpose of such examination is to gauge the personality and attitude of the candidate as reflected in general pertinent conversation, it is sufficient if the examiner's findings thereon be recorded on the appraisal sheet according to the personal qualifications itemized for measure. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

The Civil Service Commission may properly use the confidential report of a county department head as part of the evaluation of a candidate for promotion, since it is a contemporary appraisal of the candidate's past performance in the service and, being based on personality factors which appear to have a valid relation to his readiness for promotion is as objective as practicable in listing the points for rating. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 746.

Mandamus will not lie to compel a county civil service commission to annul promotional examinations and corresponding eligible lists promulgated on results thereof, where the examinations as prescribed by the commission were appropriate to the competitive selection of civil service personnel, and there was no charge or showing that the commission abused its discretion or proceeded otherwise than honestly and in good faith in the evaluation process.

Almassy v. Los Angeles County Civil Service Com. (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

That provision that applicants for positions in the uniformed forces of the fire and police departments "shall have the physical qualifications for enlistment" in the armed forces prescribes standards of minimum qualifications; and under the provision making the Civil Service Commission "the sole judge of the adequacy of the tests," it may require additional qualifications with which the courts will not interfere in the absence of a showing that they are arbitrary, capricious or unreasonable. **Cotter v. Wolff** (1948) 88 Cal. App. (2d) 382 (88 ACA 382), 198 Pac. (2d) 950.

The civil service provisions of a city charter for open and competitive examinations as the basis of employment in the classified service rule out any discrimination in hiring policies in favor of labor union members, and, perforce forbid a closed or union shop. **City of Los Angeles v. Los Angeles Bldg. & Const. Trades Council** (1949) 94 Cal. App. (2d) 36, 210 Pac. (2d) 305. Hearing in Supreme Court granted.

Where a city charter provides for competitive examination as a basis of employment, such provision cannot be modified by agreement whether coerced or voluntary; hence the employees of such city cannot, consistent with public policy expressed in its charter, lawfully strike or picket for the purpose of enforcing demands as to conditions of employment in respect to which neither the city nor a department thereof is obligated to bargain collectively, nor as to those conditions of employment which are covered by the city charter. **City of Los Angeles v. Los Angeles Bldg. & Const. Trades Council** (1949) 94 Cal. App. (2d) 36, 210 Pac. (2d) 305. Hearing in Supreme Court granted.

The actions of a city civil service board, exercising adjudicatory functions as an administrative tribunal, when based on information of which the parties were not apprised and which they had no opportunity to controvert, amounts to the denial of a hearing. **English v. Long Beach** (1950) 35 Cal. (2d) 155, 217 Pac. (2d) 22, on hearing after 93 ACA 675, 209 Pac. (2d) 403.

A rule of a municipal civil service board requiring a physcial examination of an employee after six months' absence, and providing that failure to pass the examination shall constitute grounds for his suspension or dismissal, does not leave the determination of whether or not an employee shall be suspended or dismissed to the uncontrolled discretion of the examining physicians; their findings and conclusions form merely part of the evidence to be considered by the board in determining whether the employee shall be suspended or dismissed. **English v. Long Beach** (1950) 35 Cal. (2d) 155, 217 Pac. (2d) 22, on hearing after 93 ACA 675, 209 Pac. (2d) 403.

Cited without particular application, **Terry v. Civil Service Commission of San Francisco** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d) 691.

Time of War

SECTION 145.01. In the administration hereafter of the provisions of section 145 of this charter, the terms Army, Navy or Marine Corps of the United States shall be deemed to include the Army, the Air Corps, the Navy, the Marine Corps, and the Coast

Guard of the United States, and for the purpose of determining whether any person was mustered into, or served in, the Army, the Air Corps, the Navy, the Marine Corps, or the Coast Guard of the United States, in time of war, the expression, time of war, shall include the following periods of time:

(a) The period of time from the commencement of a war as shown by any declaration of war of the Congress of the United States, or by any statute or resolution of the Congress a purpose of which is to declare in any manner the existence of a state of war, until the time of termination thereof by any truce, treaty of peace, cessation of hostilities, or otherwise.

(b) The period of time during which the United States is or has been engaged in active military operations against any foreign power, whether or not war has been formally declared.

(c) The period of time during which the United States is or has been assisting the United Nations or any nation or nations in accordance with existing treaty obligations, in active military operations against any foreign power, whether or not war has been formally declared. [*New section, 1953*]

Limited Tenure Appointments

SECTION 145.1. When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under section 145 hereof, the civil service commission may qualify applicants for wartime appointments to positions through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the civil service commission adopted pursuant thereto and the tests shall be adequate in the judgment of the civil service commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in section 145 hereof. Appointments made under the provisions of this section shall be designated ''limited tenure appointments'' and may continue only until registers of eligibles are established through the regular examination procedure provided in section 145 hereof but in no event to exceed six months beyond the cessation of hostilities. Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the civil service commission without reference to the procedures governing removals set forth in section 154 hereof. Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this charter or by rule of the civil service commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in section 145 of the charter. Service after January 1, 1951, under limited tenure appointment, by platform employees of the municipal railway, shall not be included in the calculation of service of such employees for the purpose of determining assignments of runs when such assignments are made on the basis of seniority of service.

Non-civil service appointments in the absence of civil service eligibles as provided in section 149 of this charter shall not be authorized if applicants qualified for limited tenure appointments are available. The civil service commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in section 145 hereof. If its annual appropriation is insufficient to meet the cost of the examinations required to establish registers of eligibles through the examination procedures set forth in section 145 hereof, or to qualify applicants for limited tenure appointments as herein provided, the commission shall report to the mayor the estimated cost thereof and the mayor shall request and the supervisors shall make supplemental appropriations therefor in the manner provided herein for supplemental appropriations.

The civil service commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments.

In time of national emergency declared by the President of the United States or by the Congress or while any act authorizing compulsory military service or training is in effect, the provisions of this section may also be made operative upon recommendation of the civil service commission and approval of the board of supervisors by ordinance enacted by two-thirds vote of the board. Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six months after repeal by the board of supervisors of the ordinance which authorized such appointments. [*New section, 1943; amended, 1951*]

Under a charter provision (See Los Angeles Charter, art. 9, § 34 (10)) providing for temporary positions in the civil service necessitated by absence due to the war, and rules providing a simplified procedure for selection of such employees, a holder of such a position is not a permanent employee, and is not embraced within a previously existing provision (Los Angeles Charter, § 37) blanketing in persons in the classified service at the time it took effect. **Matherly v. Allen** (1949) 86 Cal. App. (2d) 95, 194 Pac. (2d) 18.

Where conductors, motormen and bus drivers appointed under this section were given credit for length of service under limited tenure employment in determining length of service upon which to base priority in the choice of carbarns, runs and vacation periods, this practice under the rules of the San Francisco Public Utilities Commission was within the discretion of the commission in the absence of a charter provision to the contrary. **Hart v. Landis** (1951) 103 Cal. App. (2d) 284, 229 Pac. (2d) 380.

Cited without particular application. **Corcoran v. San Francisco City and County Employees Retirement System** (1952) 114 Cal. App. (2d) 738, 251 Pac. (2d) 59.

Promotions

Section 146. Whenever it deems it to be practicable, the civil service commission shall provide for promotion in the service on the basis of such examinations and tests as the commission may deem appropriate, and shall, in addition, give consideration to ascertained merit and records of city and county service of applicants. The commission shall announce in the examination scope circular the next lower rank or ranks from which the promotion will be made. Except as specifically provided in other sections of this charter, all promotions in the uniform forces of the police and fire departments, respectively, shall be made from the next lower civil service rank attained by examinations, as herein set forth, giving consideration also to meritorious public service and seniority of service and a clean record in the respective departments. All such promotive examinations in the police and fire departments shall be entirely of a written character, and all questions asked or problems given in said examinations shall pertain to matters concerning the duties of members of the department for which the examination is held.

Fifteen per cent of the total credits obtainable under any promotive examination for eligibles for the police or fire department shall be allowed for seniority of service, which said credits shall be distributed as follows:

Examinations for Eligibles for the Police Department

(a) For Promotion to the Rank of Sergeant of Police:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of fifteen per cent of the credits of the entire examination is reached;

(b) For Promotion to the Rank of Lieutenant of Police:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits of the entire examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of corporal or sergeant until a total of six per cent of the credits of the entire examination is reached.

(c) For Promotion to the Rank of Captain of Police:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits for said examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of lieutenant until a total of six per cent of the credits of the entire examination is reached.

(d) In addition to the foregoing credits for seniority, six per cent of the total credits allowed for said examination shall be allowed each applicant for a clean record in the department. All members of the department who have performed acts of meritorious public service and have not heretofore received credit for such meritorious public service in a promotional examination and all members of the department who shall perform acts of meritorious public service prior to the effective date of this amendment shall be allowed in addition a maximum of four credits for said examination according to the judgment of the commission. Credits for meritorious public service, in a promotional examination within the police department shall not be allowed by the civil service commission except as herein provided.

Examination for Eligibles for the Fire Department

Fifteen per cent of the total credits allowed for any promotive examination shall be allowed for seniority of service, which said credits shall be distributed as follows:

(e) For Promotion to the Rank of Lieutenant in the Fire Department:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a maximum of fifteen per cent is reached;

(f) For Promotion to the Rank of Captain in the Fire Department:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent is reached; and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service in the rank of lieutenant until a total of six per cent of the credits of the entire examination is reached.

(g) For Promotion to all Ranks Above Captain in the Fire Department:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent of said credits is reached, and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service as an officer in the rank held by the applicant at the time of the examination, until a total of six per cent of the credits of the entire examination is reached.

(h) In addition to the foregoing credits for seniority six per cent of the total credits allowed for said examinations shall be allowed to each applicant for a clean record in the department.

(i) In promotional examinations in the police and fire departments, seniority of service and a clean record in the respective departments shall be added to the credit obtained by the applicant in the written portion of said examination, and shall be taken into consideration by the commission in determining his passing mark and his place upon the list of eligibles.

(j) In computing the credits for service in both the police department and the fire department, fractional parts of the year shall not be considered. [*Amended, 1937; 1941; 1954*]

The requirement that the commission, where it deems it practicable, shall provide for promotional examinations is mandatory, and, if there are qualified persons eligible to such examination, the commission can only ascertain if it is impracticable to give a promotional examination after those eligible have been given such examination. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342; **Rhodehamel v. Civil Service Commission** (1941) 18 Cal. (2d) 709, 117 Pac. (2d) 349.

Under this section promotional examinations, except for those in the lowest ranks, are required to be held unless they are not practicable, and in determining whether or not they are practicable the commission does not possess unlimited discretion. **Allen v. Mckinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342; **Rhodehamel v. Civil Service Board** (1941) 18 Cal. (2d) 709, 117 Pac. (2d) 349.

While this section makes it the duty of the commission to provide for a promotional examination whenever "it deems it to be practicable" whereas the old Charter provided for such examination "whenever practicable," the two sections should be construed to mean substantially the same thing, that is, that under the old section as under the new, the question as to whether a promotional examination is practicable is confined to the limited discretion of the commission. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

The provision requiring the commission "whenever it deems it practicable" to give promotional and not open examinations embodies one of the fundamental concepts of a sound civil service system. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117. Pac. (2d) 342.

The requirement of this section that promotional examinations shall be held when practicable is intended to promote efficiency among public employees. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

In giving an open and original examination, instead of a promotional one, for creating an eligible list for the position of adjuster in the tax collector's office, the Civil Service Commission abused its discretion where there were a large number of persons in the service fully qualified to take the examination for the eligible list for that position. **Allen v. McKinley** (1941) 18 Cal. (2d), 117 Pac. (2d) 342.

Discretion as to Ranks from Which Promotion Made.—Under the provision that "The commission shall announce . . . the next lower rank or ranks from which the promotion will be made," the Civil Service Commission has a wide discretion in determining the priority in ranks and in further determining the ranks falling in the category of the "next lower rank or ranks." And its determination will not be interfered with unless it clearly appears that the commission has abused its discretion. **Shannon v. McKinley** (1944) 62 Cal. App. (2d) 169, 144 Pac. (2d) 433, citing **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342, decided under the old Charter.

It was not an abuse of discretion for the Civil Service Commission to declare that municipal railway conductors and motormen as well as inspectors were within "the next lower rank or ranks" eligible to take a promotional examination to create an eligible list for the rank of special instructor where there were many overlapping salary ranges, and at least in the lower grades there was no clear cut priority of rank and therefore no precise method, without the exercise of discretion, for the determination. **Shannon v. McKinley** (1944) 62 Cal. App. (2d) 169, 144 Pac. (2d) 433.

Mandamus.—In a mandamus proceeding to compel the Civil Service Commission to place the name of a police officer on the eligible list for promotion, brought following the allegedly erroneous denial of any points allowable for a clean record, the limit of the trial court's power, if it finds the petitioner to be entitled to relief, is to direct the commission to exercise its discretion in determining whether the officer is entitled to any of such points, and, if so, what part. **Conroy v. Civil Service Commission** (1946) 75 Cal. App. (2d) 450, 171 Pac. (2d) 500.

Effect of Judgment.—A judgment in a declaratory relief action purporting to adjudge the effect of the 1941 amendment to the section is not res judicata where the action did not present any acute, specific or pending controversy, but sought an advisory opinion on behalf of the entire membership of the police force. **Conroy v. Civil Service Commission** (1946) 75 Cal. App. (2d) 450, 171 Pac. (2d) 500.

Deduction for Unclean Record.—Where, in computing the score of a police officer on a promotion examination, the commission, applying the provision of the 1941 amendment to this section directing sixty per cent of the ten per cent to be allowed for a clean record, deducted all sixty points from applicant's score because he had been before the commission for disobedience of an order, thus bringing his score below the passing mark, the officer was not entitled to a writ of mandate to compel the commission to place him on the eligible list, since the court could not control the commission's discretion in determining whether petitioner was entitled to any part of the sixty points. **Conroy v. Civil Service Commission** (1946) 75 Cal. App. (2d) 450, 171 Pac. (2d) 500.

Section 146 of the charter of the City and County of San Francisco, declaring that in examinations by the Civil Service Commission for promotions in the police department credits shall be allowed for meritorious service, makes credit for such service an integral part of the written examination, and such service is to be credited as of the date the examination is actually held in the absence of a valid rule or regulation prescribing a different date. **Conroy v Wolff** (1950) 34 Cal. (2d) 745, 214 Pac. (2d) 529, on hearing after 93 ACA 457, 208 Pac. (2d) 1023.

The action of the Civil Service Commission of the City and County of San Francisco in designating as the cutting off date of a promotional examination the official beginning date of the examination as noted in the scope circular could not be deemed the equivalent of a rule where it did not meet the requirements of section 141 of the charter that changes in rules be published, that one week's notice be given, and that no change in the rules should affect a case pending before the commission. **Conroy v. Wolff** (1950) 34 Cal. (2d) 745, 214 Pac. (2d) 529, on hearing after 93 ACA 457, 208 Pac. (2d) 1023.

A rule of a municipal civil service commission covering seniority credits cannot be regarded as a rule covering meritorious credits to be allowed on promotional examinations where there is nothing in the language of such rule to indicate that it covers meritorious service. **Conroy v. Wolff** (1950) 34 Cal. (2d) 745, 214 Pac. (2d) 529, on hearing after 93 ACA 457, 208 Pac. (2d) 1023.

A scope circular of a municipal civil service commission designating the beginning date of examination for promotions in the police department cannot be deemed to have established a rule with respect to allowance of credits for meritorious service, where it merely states that such credits would be "allocated in accordance with the provisions of the charter." **Conroy v. Wolff** (1950) 34 Cal. (2d) 745, 214 Pac. (2d) 529, on hearing after 93 ACA 457, 208 Pac. (2d) 1023.

Where fact finding powers are conferred on a civil service commission, its determination will not be set aside unless it is alleged and proved that the commission acted arbitrarily, capriciously or fraudulently. **Wilson v. L. A. County Civil Service Com.** (1950) 95 Cal. App. (2d) 51, 212 Pac. (2d) 260.

Substitute Promotional Examinations for Persons Returning from Service in Armed Forces or Maritime Service

SECTION 146.1. Employees under permanent civil service appointment who, because of absence on duly authorized military leave, did not participate in a promotional examination held between September 16, 1940, and July 7, 1947, in which examination the employee would have been otherwise eligible to compete had the war not intervened, and which examination is hereinafter referred to as the original promotional examination, shall after abridgement of military leave, have the right to participate in a similar promotional examination. The provisions of this section shall not apply to employees whose military leave extends beyond July 7, 1947. Provided further, that persons and employees who were on entrance or promotive eligible lists, shall, for the purpose of this amendment, be deemed to be permanent appointees in their classifications from the time their names were reached for certification while in the military service.

In order to qualify for participation in a similar promotional examination under the provisions of this section, such employee who desires to participate therein must have made application in writing to the civil service commission within thirty days after the abridgment of his military leave, or within thirty days after January 7, 1947. Failure to file such written request to participate in a similar promotional examination as herein provided shall be deemed a waiver of all rights of the employee to participate in such similar promotional examination.

The civil service commission shall arrange to hold such similar promotional examination within a reasonable time after all such employees eligible to request participation in any such similar promotional examination under the provisions of this section have indicated their desire to so participate, or have waived their right to participate, as herein provided.

The civil service commission shall be the sole judge of the adequacy of such similar promotional examination. If the employee obtains in the similar promotional examination a score rating equal to or more than the minimum passing mark established by the civil service commission for inclusion on the list of eligibles resulting from the original promotional examination, his name shall thereupon be entered on the eligible list resulting from the original promotional examination in accordance with the relative excellence obtained by all the qualified participants in the original and similar promotional examinations. Such employees shall be eligible for appointment from such lists of eligibles in accordance with civil service rules to any vacancy thereafter occurring, and subject to satisfactory completion of a probationary period as provided in section 148 of this charter for a period of four years after the proclamation of peace or the termination of the emergency, and before eligibles procuring standing through examinations held subsequent to the original promotional examination.

If it is determined by the civil service commission that the name of such person would have been reached for permanent appointment from the list of eligibles established as a result of the original promotional examination during his term of military service had the name of such person appeared thereon, then such employee, upon appointment to a permanent position as herein provided, shall be granted seniority in such appointment from the date his name would have been reached had his name appeared thereon, but such seniority shall be used only for the purpose of determining salary increments and calculating city and county service credits in other promotional examinations held subsequent to the similar promotional examination herein authorized. For all other purposes, seniority of service shall date from the date of appointment as a result of qualifying in the similar promotional examination as herein authorized.

Such employees who qualify for appointment as a result of a similar promotional examination as herein provided, and who are appointed to permanent positions, as herein provided, shall be permitted to participate in other promotional examinations for which they are otherwise eligible, while serving under probationary appointment in the position to which appointment as a result of the similar promotional examination, provided that certification from lists of eligibles established from such other examinations shall not be made until the employee has satisfactorily completed the aforesaid probationary appointment.

The civil service commission shall adopt rules to govern the administration of similar promotional examinations herein authorized, and appointments and other matters resulting therefrom. [*New section, 1947; amended, 1948*]

Substitute Promotional Examinations for Employees Returning From Service in Armed Forces

Section 146.2 Employees under permanent civil service appointment who, because of absence on duly authorized military leave for service in the armed forces of the United States, did not participate in a promotional examination held between September 16, 1940 and the effective date of this amendment, in which examination the employee was otherwise eligible to compete, and which examination is hereinafter referred to as the original promotional examination, shall after abridgment of military leave, have the right to participate in a similar promotional examination, subject to the provisions of this section. The provisions of this section shall not apply to employees whose military leave extends beyond six months after the effective date of this amendment.

In order to qualify for participation in a similar promotional examination under the provisions of this section, such employee who desires to participate therein must make application in writing to the civil service commission within thirty days after the abridgment of his military leave, or within thirty days after the effective date of this amendment, whichever is later. Failure to file such written request to participate in a similar promotional examination as herein provided shall be deemed a waiver of all rights of the employee to participate in such similar promotional examination.

The civil service commission shall arrange to hold such similar promotional examination within a reasonable time after all such employees eligible to request participation in any such similar promotional examination under the provisions of this section have indicated their desire to so participate, or have waived the right to participate, as herein provided.

The civil service commission shall be the sole judge of the adequacy of such similar promotional examination. If the employee obtains in the similar promotional examination a score rating equal to or more than the minimum passing mark established by the civil service commission for inclusion on the list of eligibles resulting from the original promotional examination, his name shall thereupon be entered on the eligible list resulting from the original promotional examination in accordance with the relative excellence obtained by all the qualified participants in the original and similar promotional examinations. Such employees shall be eligible for appointment from such list of eligibles in accordance with civil service rules to any vacancy thereafter occurring, and subject to satisfactory completion of a probationary period as provided in section 148 of this charter for a period of four years after the proclamation of peace or the termination of the emergency, and before eligibles procuring standing through examinations held subsequent to the original promotional examination.

If it is determined by the civil service commission that the name of such person would have been reached for permanent appointment from the list of eligibles established as a result of the original promotional examination during his term of military service had the name of such person appeared thereon, then such employee, upon appointment to a permanent position as herein provided, shall be granted seniority in such appointment from the date his name would have been reached had his name appeared thereon, but such seniority shall be used only for the purpose of determining salary increments and calculating city and county service credits in other promotional examinations held subsequent to the similar promotional examination herein authorized. For all other purposes, seniority of service shall date from the date of appointment as a result of qualifying in the similar promotional examination as herein authorized.

Such employees who qualify for appointment as a result of a similar promotional examination as herein provided, and who are appointed to permanent positions, as herein provided, shall be permitted to participate in other promotional examinations for which they are otherwise eligible, while serving under probationary appointment in the position to which appointed as a result of the similar promotional examination, provided that certification from lists of eligibles established from such other examinations shall not be made until the employee has satisfactorily completed the aforesaid probationary appointment.

The civil service commission shall adopt rules to govern the administration of similar promotional examinations herein authorized, and appointments and other matters resulting therefrom. [*New section, 1947*]

CIVIL SERVICE
(Continued)

No Aid, Hindrance, Fraud or Collusion Permitted

SECTION 147. No person or officer shall, by himself or in cooperation with other persons, defeat, deceive or obstruct any person in respect to his or her right of examination; or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing; or make any false representations concerning the same, or concerning the person examined; or furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person of being appointed, employed or promoted.

Any eligible securing standing on a list by fraud, concealment of fact or violation of commission rules shall be removed from such list and if certified or assigned to a position shall be removed therefrom.

See **Dierssen v. Civil Service Commission**, § 141.

Inspection of Civil Service Examination Papers

SECTION 147.1. After the civil service commission has prepared and published or posted a list of eligibles, arranged in order of relative excellence, as the result of any examination held by said commission, said list shall not be finally approved for two weeks after the date of the publication or posting of said list, during which time all examination papers, questions and answers, and all marks and grades given on any test given in said examination shall be open to public inspection and copying by any citizen, providing that the identity of the examiner giving any mark or grade in an oral test shall not be disclosed; and provided further that the commission may require the payment of a fee of not more than one dollar ($1) for the inspection of all of the papers relating to the examination of any one person participating in said examination; and provided further that a participant may examine his own examination papers without charge. The civil service commission shall have power to correct any error which in its judgment may have occurred in the rating of any participant in said examination, and to alter said published or posted list of eligibles and to make changes accordingly therein which in the opinion of said commission may be justified by any re-examination of said papers, questions, answers, marks or grades given in said examination; provided that said changes shall be made within a period of not more than sixty (60) days after the date of the publication or posting of said list. [*New section, 1938*]

See **Dierssen v. Civil Service Commission**, § 141.

Requisition, Certification and Appointment

Section 148. Whenever a position controlled by the civil service provisions of this charter is to be filled, the appointing officer shall make a requisition to the civil service commission for a person to fill it. Thereupon, the commission shall certify to the appointing officer the name and address of the person standing highest on the list of eligibles for such position. In case the position is promotive, the commission shall certify the name of the person standing highest on such list. In making such certification, sex shall be disregarded except when a statute, a rule of the commission or the appointing officer specifies sex.

From the requisition of the appointing officer or otherwise, the commission shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The commission shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Any appointment to a position declared permanent by the civil service commission shall be on probation for a period of six months, provided that the probationary period for entrance positions in the uniform rank of the police department shall be for one year. At any time during the probationary period the appointing officer may terminate the appointment upon giving written notice of such termination to the employees and to the civil service commission specifying the reasons for such termination. Except in the case of uniformed members of the police and fire departments the civil service commission shall inquire into the circumstances. If the appointment resulted from an entrance examination the commission may declare such person dismissed or may return the name to the list of eligibles for certification to another department. If the appointment resulted from a promotional examination the employee shall have the right of appeal and hearing before the civil service commission. The commission shall render a decision within thirty days after receipt of the notice of termination and (a) may declare such person dismissed; or (b) order such person reinstated in his position without prejudice, and the commission may in its discretion order that the employee be paid salary from time of the termination of his appointment; or (c) order the return of such person to the position from which he was promoted. The decision of the commission shall be final. Immediately prior to the expiration of the probationary period the appointing officer shall report to the civil service commission as to the competence of the probationer for the position, and if competent, shall recommend permanent appointment. [*Amended, 1937; 1946*]

The Civil Service Commission did not possess power to determine whether a position was temporary or permanent with respect to one who was appointed before this section became effective. Nor did it possess such power by reason of a second appointment after the effective date of the Charter which was a nullity because the appointee had been regularly appointed to a permanent position. **Doerr v. Civil Service Commission** (1937) 21 Cal. App. (2d) 173, 68 Pac. (2d) 731.

The mandatory duty imposed upon the commission to certify the name of the person ranking highest on the current list of eligibles for the position to be filled cannot be circumvented by a rule of the commission. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

Certifying Names for Position of General Clerk-Stenographer.—On requisition to the Civil Service Commission for a person to fill the newly created position of general clerk-stenographer in the Board of Supervisors, it was the imperative duty of the commission to certify the name of the person standing first on the list of eligibles, and, where such person held a position of a classification different from that of the general clerk-stenographer, the commission was not justified in failing to certify his name by its own rule purporting to confer upon it discretionary power in respect to transfers to permanent positions of the same classification under different appointing officers. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

A judgment for petitioner in mandamus compelling the Civil Service Commission to certify his name to the Board of Supervisors for the position of general clerk-stenographer is erroneous in so far as it attempts to relieve petitioner of the necessity of passing a probationary period in the new position. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

Reinstatement of General Clerk-Stenographers.—Upon termination of their positions as general clerk-stenographers in the public welfare department, petitioners were not entitled to a writ of mandate compelling the commission to declare the positions permanent and to reinstate them, where it appeared that such positions were classified as temporary, that petitioners, after being certified under a requisition calling for temporary appointment, accepted the appointments and reappointments fully aware of their status, and that, because of their rating on the eligible lists, they would not have been eligible to the positions were such positions permanent. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880, in which the opinion, referring to **McGillicuddy v. Civil Service Commission** (1933) 133 Cal. App. 782, 24 Pac. (2d) 942; **Pow-**

ers v. Board of Public Works (1932) 216 Cal. 546, 15 Pac. (2d) 156 and **Rodgers v. Board of Public Works** (1929) 208 Cal. 291, 281 Pac. 64, states that the provisions of the new Charter so altered those of the old one as to make those cases of little value in determining the issues presented in the instant case.

One's position as jailer was permanent where before the effective date of the new Charter the Civil Service Commission pursuant to the Sheriff's request certified him from the register of eligibles as eligible for temporary employment, and where after the new Charter had gone into effect he served continuously for a period in excess of the six-months probationary period. **Doerr v. Civil Service Commission** (1937) 21 Cal. App. (2d) 173, 68 Pac. (2d) 731, following **McGillicuddy v. Civil Service Commission** (1938) 133 Cal. App. 782, 24 Pac. (2d) 942.

In mandamus to compel the commission to recognize that petitioner's tenure had ripened into a permanent employment, an allegation that their tenure of the positions for more than the probationary six months conferred upon them the status of permanent employees, and that the procedure whereby they were laid off for one day at the end of each five months' period was invoked arbitrarily for the express purpose of preventing them from acquiring a permanent status and avoiding the necessity of reclassifying the positions as permanent was not sustained where there was no showing that the commission acted other than in the highest good faith in dealing with them, or that any injustice or discrimination was practiced against them. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

Sex.—Const. art. xx, § 18, and a charter provision forbidding discrimination in employment on ground of sex. (Los Angeles Charter, § 424) are equally binding on the appointing power, and despite the provision referring to the appointing power specifying sex (Los Angeles Charter, § 109) an appointing officer has no authority in his request for certification to specify sex when the positions to be filled are such that the duties can be performed equally well by men and women. **Carter v. Los Angeles** (1948) 31 Cal. (2d) 341, 188 Pac. (2d) 465.

Emergency Appointments

SECTION 149. When no list of eligibles exists or no eligible is available on an existing list for a position in the class requisitioned by the appointing officer, and immediate service in the position is required by the appointing officer and another list exists which is deemed by the commission to be suitable to provide temporarily the service desired, the commission shall certify for civil service temporary appointment an eligible from such list; if no such other list deemed by the commission to be suitable exists, the commission pursuant to its rules may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding ninety working days. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such ninety working days at the time a civil service eligible reports for duty as provided in section 148 of the charter.

If a list of eligibles exists for the position requisitioned, but immediate service is deemed necessary by the appointing officer pending the time an eligible from such list is certified and reports for duty as provided in section 148 of the charter, the commission may authorize the appointing officer to make a non-civil service or emergency appointment thereto for a period not exceeding thirty working days. Such non-civil service or emergency appointment, however, shall cease prior to the expiration of such thirty working days at the time a civil service eligible reports for duty as provided in section 148 of this charter.

No person shall be compensated under any non-civil service or emergency appointment or appointments as authorized under the provisions of the foregoing paragraphs of this section for a period exceeding ninety working days in any fiscal or calendar year, and no claim or warrant therefor shall be approved, allowed or paid for any compensation in excess of such ninety working days in any fiscal or calendar year.

If no eligibles are available for appointment to a permanent position in the class requested by the appointing officer the commission shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, it shall report to the mayor the estimated cost thereof, and the mayor shall request and the supervisors shall make supplemental appropriation therefor in the manner provided herein for supplemental appropriations.

Whenever the board of supervisors by a three-fourths vote of all its members shall declare that an unemployment emergency exists throughout the city and county because of extraordinary conditions due to unemployment, and shall fix the period during which such unemployment emergency shall be officially recognized, the civil service commission shall then have power to exempt from civil service examinations during such emergency period all places of employment that may be created by special appropriation to relieve such unemployment emergency; provided, that no action shall be taken under the provisions of this paragraph that will adversely affect the rights of civil service eligibles for employment in the usual temporary and permanent positions that are provided for in the annual salary ordinance. The civil service commission shall adopt special rules for the government of appointments to the emergency positions that may be created under the authority of this paragraph. [*Amended, 1933; 1953*]

An assistant keeper in the office of Sheriff who was appointed to temporarily fill a vacancy in the position of head keeper and given the entrance salary provided by ordinance for persons appointed to fill vacancies could not, whether his appointment rested in this section or § 141, claim the salary attached to the position of head keeper. **Dunn v. Civil Service Commission** (1935) 3 Cal. App. (2d) 554, 40 Pac. (2d) 310.

Verification of Payrolls

SECTION 150. All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the civil service commission before presentation to the controller.

The secretary of the commission shall examine and approve such payroll for all persons legally appointed to or employed in positions legally established under this charter. The payrolls thus approved, with notation of any item thereof disapproved, shall then be certified by the secretary of the commission and transmitted by him to the controller. The controller shall not approve and the treasurer shall not pay any claim for personal services, or pay check or warrant for salary, wages or compensation unless the same shall have been approved by the said secretary.

For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any department head or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said department heads or other officers, and shall be subject to examination and approval by the secretary of the civil service commission and the controller in the same manner as payments for personal services.

The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other moneys received by him, in the course of his office or employment, into the city and county treasury except as provided in section 32 of this charter.

No officer or employee shall be paid for a greater time than that covered by his actual service; provided, however, that the basic amount of salary, wage or other compensation, excluding premium pay differentials of any type whatsoever of any officer or employee who may be called upon for jury service in any municipal, state or federal court, shall not be diminished during the term of such jury service. There shall, however, be deducted from the amount of basic salary, wage or other compensation, excluding any pay premium differentials of any type whatsoever payable by the city and county to the officer or employee for such period as such officer or employee may be absent on account of jury service, any amounts which the officer or employee may receive on account of such jury service. Any absence from regular duty or employment while on jury duty shall be indicated on timerolls by an appropriate symbol to be designated by the Controller. [*Amended, 1953*]

Mandamus is available to compel the head of a department to certify and transmit work records of employees showing the periods worked on night shifts, as against the objection that this is not a proper remedy to recover money only. **Scannell v. Murphy** (1947) 82 Cal. App. (2d) 844, 187 Pac. (2d) 790.

Fees received during course of office. A city charter provision that "All fees collected by an officer, . . . of the city for the performance of any official duty shall be paid by him into the City Treasury," refers only to fees collected for the performance of official duties with the city, and does not require that fees collected for other purposes be paid into the treasury. **Mott v. Horstmann** (1950) 36 Cal. (2d) 388, 244 Pac. (2d) 11.

In determining the question of the personal liability of the controller for the allowance, and the treasurer for the payment, of salary claims illegally approved by an appointing officer, this section and § 73 must be read with § 86. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In allowing and paying salary claims, the controller and the treasurer are not required under § 86, when read together with this section and § 73, to pass upon the legality of the claimant's appointment; they are simply required to see to it that payments are not made unless they comply with procedure set up in the charter; they are not required to go beyond the certifications of the department head and the secretary of the commission as to the legality of the appointment. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

CIVIL SERVICE
(Continued)

Standardization of Compensation

SECTION 151. The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as in this section provided, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

Compensations specified in this charter shall not be subject to the provisions of this section. Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than fifty dollars ($50) per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a department head, only with the approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

In fixing schedules of compensation as in this section provided, the civil service commission shall prepare and submit to the board of supervisors and the board shall adopt a schedule of compensations which shall include all classifications, positions and places of employment the wages or salaries for which are subject to the provisions of this section; provided, that the civil service commission shall from time to time prepare and submit to the board of supervisors and the board shall adopt amendments to the schedule of compensations which are necessary to cover any new classifications added by the civil service commission. Under the schedules of compensation recommended by the civil service commission and adopted by the board of supervisors as herein provided, like compensation shall be paid for like service, based upon the classification as provided in section 141 of the charter, and for those classifications of employment in which the practice is customary, the proposed schedules of compensation shall provide for minima, intermediate, and maxima salaries and for a method of advancing the salaries of employees from the minimum to the intermediate and to the maximum with due regard to seniority of service. The compensations fixed as herein provided shall be in accord with the generally prevailing rates of wages for like service and working conditions in private employment or in other comparable governmental organizations in this state; provided, that for specialized services which are peculiar to the municipal service and not duplicated elsewhere in private or other governmental organizations in this state, the commission shall recommend and the board of supervisors shall fix a compensation which shall be in accord with the wages paid in private employment or other governmental organizations in the state for the nearest comparable service and working conditions; and provided further that if the civil service commission determines on the basis of facts and data collected as hereinafter provided that the rates generally prevailing for a particular service in private employment or in other governmental organizations are inconsistent with the rates generally prevailing in private employment or other governmental organizations for services requiring generally comparable training and experience, the commission shall set forth these data in its official records and shall recommend and the board of supervisors shall fix a compensation for such service that shall be consistent with the compensations fixed by the board of supervisors for other services requiring generally comparable training and experience; and provided further that the minimum compensation fixed for full time employments subject to the civil service provisions of this charter shall be not less than one hundred and six dollars ($106) per month.

The proposed schedules of compensation or any amendments thereto shall be recommended by the civil service commission solely on the basis of facts and data obtained in a comprehensive investigation and survey concerning wages paid in private employment for like service and working conditions or in other governmental organizations in this state. The commission shall set forth in the official records of its proceedings all of the data thus obtained and on the basis of such data the commission shall set forth in its official records an order making its findings as to what is the generally prevailing rate of pay for each class of employment in the municipal service as herein provided, and shall recommend a rate of pay for each such classification in accordance therewith. The proposed schedules of compensation recommended by the civil service commission shall be transmitted to the board of supervisors, together with a compilation of a summary of the data obtained and considered by the civil service commission and a comparison showing existing schedules. Before being presented to the board of supervisors for consideration, the proposed schedules and a comparison with existing schedules shall be published once a week for two weeks.

The board of supervisors may approve, amend or reject the schedule of compensations proposed by the civil service commission; provided, that before making any amendment thereto the data considered by the board of supervisors as warranting such amendment shall be transmitted to the civil service commission for review and analysis and the commission shall make a report thereon to the board of supervisors, together with a report as to what other changes, and the cost thereof such proposed amendment would require to maintain an equitable relationship with other rates in such schedule.

Where any compensation paid on January 1st, 1931, is higher than the standard compensation fixed as provided in this section for such position or employment, said compensation shall be continued to the incumbent of such position as long as he legally holds said position, and department heads, in cooperation with the civil service commission where said commission has jurisdiction, shall continuously offer all possible opportunities to said incumbents to assume duties and responsibilities in higher classifications consistent with the higher rates of compensation hereby continued. The salaries and wages paid to employees whose compensations are subject to the provisions of this section shall be those fixed in the schedule of compensations adopted by the board of supervisors as herein provided and in accord with the provisions of the ordinance of the board of supervisors adopting the said schedule, and the compensations set forth in the budget estimates, and the annual salary ordinance and appropriations therefor shall be in accord therewith.

Not later than January 15th, 1944, and every five years thereafter and more often if in the judgment of the civil service commission or the board of supervisors economic conditions have changed to the extent that revision of existing schedules may be warranted in order to reflect current prevailing conditions, the civil service commission shall prepare and submit to the board of supervisors a schedule of compensations as in this section provided. A schedule of compensations or amendments thereto as provided herein which is adopted by the board of supervisors on or before April 1st of any year shall become effective at the beginning of the next succeeding fiscal year and a schedule of compensations or amendments thereto adopted by the board of supervisors after April 1st of any year shall not become effective until the beginning of the second succeeding fiscal year. The board of supervisors shall appropriate twelve thousand five hundred dollars ($12,500) to the civil service commission to be known as the salary survey fund and to be used exclusively for defraying the cost of surveys of wages in private employment and in other governmental jurisdictions and making reports and recommendations thereon and publication thereof as herein provided. No expenditures shall be made therefrom except on authorization of board of supervisors. In the event of the expenditure of any of said funds, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said salary survey fund.

Where compensations for services commonly paid on an hourly or a per diem basis are established on a weekly, semi-monthly or monthly salary basis for city and county service, such salary shall be based on the prevailing hourly or per diem rate, where this can be established, and the application thereto of the normal or average hours or days of actual working time, in the city and county service, including an allowance for annual vacation. *(Every person employed in the city and county service shall, after one year's service, be allowed a vacation with pay of two calendar weeks, annually, as long as he continues in his employment.) (This deletion shall become effective on January 1st, 1951.)* [*Amended, 1943; 1949*]

Rules adopted by the Civil Service Commission under the rule-making power of the Charter and not in conflict with it have the same force and effect as the Charter. **Mitchell v. McKevitt** (1932) 128 Cal. App. 458, 461, 17 Pac. (2d) 789; **Bruce v. Civil Service Board** (1935) 6 Cal. App. (2d) 633, 637, 45 Pac. (2d) 419; **Viner v. Civil Service Commission** (1943) 59 Cal. App. (2d) 458, 139 Pac. (2d) 88.

During an emergency this section may be superseded by § 25. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Repeal of Emergency Proclamations.—Emergency proclamations of the Mayor fixing the compensation of employees of a newly acquired street railway were not repealed by Standardization and Annual Salary Ordinances subsequently adopted, where they did not deal with the actual emergency, but were based on normal pay and were enacted as part of the ordinary financial machinery of the City, to become effective only after the emergency had passed. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Where valid ordinances adopted before the effective date of the new Charter (Jan. 8, 1932) provided for a 5-day week and a 254-day year instead of the 270-day year on which the budget for that year was based, and where new salary ordinances subsequent to January 9, had not been adopted, a civil service employee was entitled to his salary based on the previous ordinances, although the new work week had the effect of increasing his wage per month. **King v. Leavy** (1932) 124 Cal. App. 422, 12 Pac. (2d) 661.

The provision that the compensation for municipal employees "shall be in accord with the generally prevailing rate of wages for like service and working conditions in private employment or in other comparable governmental organizations in this state," does not require that the rates of wages recommended by the Civil Service Commission or fixed by the Board of Supervisors be identical with or not higher than the generally prevailing rates, but rather that there be a reasonable or just correspondence between the rates established and those elsewhere prevailing, i.e., that they be in harmony with and substantially conform to such other rates. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

Procedural Requirements.—There was a substantial compliance with the procedural requirements of the section where the Civil Service Commission made a survey of rates of wages paid in like employment for like service and where, although the commission did not set forth in the official record of its proceedings, all of the data obtained in its investigation or set forth an order making its findings as to the general prevailing rates, it did in formulating its recommendations have before it and consider all the facts collected in the survey, and it set forth a summary of wage recommendations and supporting data, which listed the present rate paid by the municipality, the prevailing union wages and appropriate prevailing wage for all the designated employees. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

Compensation of persons employed prior to effective date of Charter, see notes under § 71.

The provisions of the prevailing wage section of a charter are directly related to the trade in which the employee is actually working, and not merely to some trade in which he may happen to be skilled. In comparing wages paid in city service and in private employment a comparison of the work actually done is essential. And the highest-paid type of work within a trade may not be arbitrarily taken as the standard unless the work actually done by the city employee comes not only within the trade but also within that type. Further the monthly wage paid by the city cannot fairly be compared with hourly wages paid in private employment in the absence of all facts except the rate per hour where employment is on an hourly basis. **Goodrich v. Fresno** (1946) 74 Cal. App. (2d) 31, 167 Pac. (2d) 784, under Charter of Fresno.

It cannot be said that a violation of the prevailing wage provision of a charter is shown where it appears that the city made a rather extensive examination into the general facts with respect to classification and wages, descriptions of work were secured from city employees, and the classifications were adopted following notices to the employees and after full hearings and consideration of all the views expressed. **Goodrich v. Fresno** (1946) 74 Cal. App. (2d) 31, 167 Pac. (2d) 784.

Employees in the jail were "required to work eight hours on a shift within the meaning of the 1944-1945 salary ordinance, § 2.3(b), so as to entitle them to be certified as having so worked where applicable regulations indicate that employees must work a full eight-hour shift, and where they are given no time off for meals but eat them while on watch at their stations. **Scannell v. Murphy** (1947) 82 Cal. App. (2d) 844, 187 Pac. (2d) 790.

Mandamus is a proper remedy to compel certification and transmittal of work records to the proper civil service authorities so as to enable employees to receive overtime pay. **Scannell v. Murphy** (1947) 82 Cal. App. (2d) 844, 187 Pac. (2d) 790.

In a mandamus proceeding to compel reclassification of employees and payment of additional wages because of alleged noncompliance with the provision as to payment of prevailing wage in private employment, the burden of proof is on the petitioner to show the discrimination as claimed and to produce evidence of the facts upon which a comparison can fairly be based. **Goodrich v. Fresno** (1946) 74 Cal. App. (2d) 31, 167 Pac. (2d) 784, under the Charter of Fresno, § 85.

In a mandamus proceeding predicated on a violation of the provision for payment of wages prevailing in private employment, the essential question before the court is whether the provision was complied with, not as to the manner in which the municipal authorities arrived at the result they did. **Goodrich v. Fresno** (1946) 74 Cal. App. (2d) 31, 167 Pac. (2d) 784, under the Charter of Fresno.

Officers Subject to Salary Standardization

Section 151.1. Notwithstanding any other provisions or limitations of this charter, the compensations of all elective and appointive officers of the city and county, except members of the board of supervisors and of other boards and commissions, the superintendent of schools and members of the several ranks of the police and fire departments, shall be fixed in accordance with the salary standardization provisions of this charter. [*New section, 1946; amended, 1947*]

Section 151.2. *No section for this number.*

Basis of Standardization of Compensations of Certain Employees

Section 151.3. Notwithstanding any of the provisions of section 151 or any other provisions of this charter, whenever any groups or crafts establish a rate of pay for such groups or crafts through collective bargaining agreements with employers employing such groups or crafts, and such rate is recognized and paid throughout the industry and the establishments employing such groups or crafts in San Francisco, and the civil service commission shall certify that such rate is generally prevailing for such groups or crafts in private employment in San Francisco pursuant to collective bargaining agreements, the board of supervisors shall have the power and it shall be its duty to fix such rate of pay as the compensations for such groups and crafts engaged in the city and county service. The rate of pay so fixed by the board of supervisors shall be determined on the basis of rates of pay certified by the civil service commission on or prior to April 1st of each year and shall be effective July 1st following; provided, that the civil service commission shall review all such agreements as of July 1st of each year and certify to the board of supervisors on or before the second Monday of July any modifications in rates of pay established thereunder for such crafts or groups as herein provided. The board of supervisors shall thereupon revise the rates of pay for such crafts or groups accordingly and the said revised rates of pay so fixed shall be effective from July 1st of the fiscal year in which the said revisions are determined.

Should the budget estimates for the several departments be filed with the controller or transmitted to the mayor before any such report of said civil service commission is received by the board of supervisors, the head of each department affected by such report may amend its budget estimate to comply with the provisions of such report.

Notwithstanding the provisions of section 151 or any other provisions of this charter the wages of platform employees and bus operators of the municipal railway shall be determined and fixed, annually, as follows:

(A) On or before the second Monday of July of each year the civil service commission shall certify to the board of supervisors the two highest wage schedules in effect on July 1st of that year for platform employees and bus operators of other street railway systems in the State of California;

(B) The board of supervisors shall thereupon fix wage schedules for platform employees and bus operators of the municipal railway which shall be the average of the two highest wage schedules so certified by the civil service commission; provided, if the average of the two highest wage schedules shall be less than the rates of pay fixed for such service in the salary standardization ordinance adopted by the board of supervisors on March 18, 1946, the board of supervisors shall fix wage schedules for such service which shall be the same as the rates fixed for such service in the said ordinance;

(C) When, in addition to their usual duties, such employees are assigned duties of instructors of platform employees or bus operators they shall receive twenty (20c) cents per hour above the rates of pay fixed for platform employees and bus operators as herein provided;

(D) The rates of pay so fixed for platform employees and bus operators as herein provided shall be effective from July 1st of the fiscal year in which such rates of pay are certified by the civil service commission;

(E) Platform employees and bus operators shall be paid one and one-half times the rate of pay fixed as herein provided for all work performed on six days specified as holidays by ordinance of the board of supervisors for such employees.

Within thirty days after the ratification of this amendment, the board of supervisors shall fix wage schedules for the fiscal year 1946-1947 for the crafts and groups subject to the provisions of this section and which wage schedules shall be effective commencing July 1, 1946.

Not later than the 25th day of July in each year the board of supervisors shall have power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance to include the provisions necessary for paying the rates of compensation fixed by the board of supervisors as in this section provided for the then current fiscal year.

Notwithstanding any other provision of this charter, not later than thirty days after the effective date of this amendment, the board of supervisors shall have power and it shall be its duty, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance for the fiscal year 1946-1947 to include the provisions necessary for paying from July 1, 1946, the rates of compensation fixed by the board of supervisors as in this section provided for the fiscal year 1946-1947 out of such funds as the controller certifies are available. [*New section, 1946; amended, 1947*]

The hiring and paying of municipal employees is a municipal affair, and a charter provision like section 151.3 is for the "government of the City and County within Const. art. xi, § 8." **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section is not an unconstitutional delegation of legislative power. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

The argument that this section has a viciousness that may have tremendous repercussions on city government generally, is not tenable in a court which is not concerned with the wisdom of law. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section relates to "take home pay" of employees, and extends to premium pay for work on night shifts and pay for holidays. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section is not subject to objection on the ground that it is not one of the matters enumerated in Const. art. xi, § 8½. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section does not provide for collective bargaining by employees, or contravene the state policy precluding such bargaining by public corporations. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section does not violate Const. art. xi, § 13, which is merely a restraint on the State Legislature's interference with municipal affairs. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

Under this section, providing for regulation of rates of pay of municipal employees in certain crafts or groups by adopting the rates of pay fixed by collective bargaining by such crafts or groups in private industry, which section is by its later enactment and own terms controlling over § 151, giving all municipal employees with one year's service two weeks annual paid vacation, the amount of paid vacation is a part of the compensation of such employees, and the amount of such vacation, if any, provided by the collective bargaining agreement of a given craft in private industry is the amount to which municipal employees in such craft are entitled; and thus, where the agreement of a craft calls for only five working days paid vacation after a year's service and up to three years' service, that is all the vacation municipal employees in that craft may be allowed for such period of service. **Adams v. City & County of San Francisco** (1949) 94 ACA 616, 211 Pac. (2d) 268.

The sick and disability leaves provided for employees of the city and county of San Francisco by § 153 of the charter, rule 32 of the civil service commission, and part 1, § 301, of the Municipal Code, is not an element of the compensation of such employees, and is not governed by the provision of charter § 151.3 for regulation of rates of pay of municipal employees in certain crafts or groups by collective bargaining in private industry. Being treated separately from rates of pay in such legislation and determined by a different body (the Retirement Board), such sick and disability benefits have to do with welfare or working conditions rather than rates of pay, and inure to the benefit of all employees covered thereby, regardless of the provisions of charter § 151.3. **Adams v. San Francisco** (1949) 94 ACA 616, 211 Pac. (2d) 368.

Section 151.3 of the Charter of the City and County of San Francisco, providing for fixing the pay rates of certain municipal employees by adopting the rates established by collective bargaining in private employment in the same industry, is the basis for determining the wages to be paid those employees, and with respect to such determination § 151.3 is controlling over any inconsistent provision in § 151 and independent of the charter provisions relative to classification of employments. **Randall v. Wolff** (1950) 95 Cal. App. (2d) 785, 214 Pac. (2d) 58.

Annual Vacation of Employees

SECTION 151.4. Every person employed in the city and county service shall, after one year's service, be allowed a vacation with pay of two calendar weeks, annually, as long as he continues in his employment, provided that, after five years' service every person so employed shall be allowed, as long as he continues in his employment, a vacation with pay of fifteen days, annually, calculated as hereinafter provided. For the purpose of computing vacation time, each employee shall be considered to work five days each week and holidays occuring within any such five days shall be considered as working days. For the purpose of computing vacation pay, no employee shall be considered to work more than five days each week and pay for holidays occuring on any of such fifteen days shall be computed on a straight time basis. Vacation pay for employees working less than five days each week shall be computed proportionately. The time when vacations are taken shall be at the convenience of the department with due regard for seniority.

This section shall become effective on January 1st, 1951. [*New section, 1949*]

Vacations for Per Diem Workers

SECTION 151.5. (a) Every employee of the City and County of San Francisco whose rate of compensation is fixed pursuant to the provisions of section 151.3 of this charter shall be entitled to receive an annual vacation at the time, with the pay and of the duration specified in section 151.4, and no section of the charter nor any provision of any collective bargaining agreement nor any street railway or bus wage schedule shall be construed in any manner or for any purpose to increase, reduce or otherwise affect the time or duration of, or pay for, vacations provided by section 151.4, nor shall any employee be deemed to have any vacation rights other than or in excess of the vacation rights specified in section 151.4.

(b) The vacation rights granted by section 151.4 or by this section, or contained in any collective bargaining agreements, or in any street railway or bus wage schedules, as any of said terms are referred to in section 151.3 of this charter, shall in no way increase, reduce or otherwise affect or be deemed to affect the wage or pay rate or schedule determinations made pursuant to the provisions of said section 151.3.

(c) All vacation payments heretofore made to employees of the City and County of San Francisco in the manner and to the extent prescribed by sections 375 to 380, inclusive, of Part I of the San Francisco Municipal Code, are hereby deemed to have been earned and the payments therefor are hereby ratified and validated, and for all services rendered by employees during the calendar years 1948, 1949 and 1950 vacations shall be granted and paid pursuant to the terms of said sections of the Municipal Code.

(d) This section shall become effective upon approval by the State Legislature. [*New section, 1950*]

CIVIL SERVICE

(Continued)

Service Records

Section 152. The civil service commission shall establish an inspection service for the purpose of investigating the conduct of and action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the commission in making its investigations and any person hindering the commission or its agents shall be subject to suspension.

Leaves of Absence

Section 153. Leaves of absence to officers and employees of the city and county shall be governed by rules established by the civil service commission, provided that leave of absence to any officer or employee for the purpose of leaving the city and county, taking a position outside of the city and county service, or accepting a position in some department or office of the city and county other than the one in which he is employed and where the duties are in no way related to the duties covered by his civil service classification, shall be limited to six (6) months; and provided, further, that no limit shall be placed on a leave of absence granted to enable an officer or employee to accept promotion to a non-civil service position in the same department in which he holds civil service status, or promotion to co-related work in another department or office of the city and county.

Leaves of absence shall be granted to officers and employees of the City and County of San Francisco and non-certificated officers and employees of the San Francisco Unified School District for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two (2) years after the proclamation of peace, except in case of disability incurred while in active service with the armed forces or the merchant marine when such disability shall extend beyond such period.

Whenever any officer or employee of the City and County of San Francisco, or any non-certificated officer or employee of the San Francisco Unified School District shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report and serve in the armed forces of the United States, or in the armed forces of the State of California, said officer or employee shall be entitled to a leave of absence from his office or position during the time of such service and for a period not to exceed three (3) months after the expiration thereof. Officers and employees entering or being inducted into any of the services requiring military leave as provided in this section shall file with the civil service commission a copy of the orders necessitating such service prior to the effective date of the leave of absence. Leaves granted pursuant to the provisions of this and the preceding paragraph of this section shall be designated "military leaves."

The board of supervisors may, on the recommendation of the civil service commission, provide by ordinance that leaves of absence shall be granted to officers and employees during time of war or during any emergency declared by the President of the United States, for other service directly connected with the prosecution of the war or national defense or preparedness. Leaves granted under authority of ordinances enacted pursuant to the provisions of this paragraph shall be designated "war effort leaves."

In time of emergency declared by the President of the United States or by the Congress, or while any act authorizing compulsory military service or training is in effect, the board of supervisors, upon the recommendation of the civil service commission, may provide by ordinance that subject to rules of the civil service commission, leaves of absence shall be granted to officers and employees of the City and County of San Francisco and non-certificated officers and employees of the San Francisco Unified School District, for sea duty as licensed officers aboard ships operated by or for the United States government.

Any officer or employee on military leave, who, prior to such leave, has been appointed to a permanent position in the city and county service, shall be entitled to resume such position at the expiration of his leave, and in determining and fixing rights, seniority, salary and otherwise, which have accrued and shall inure to the benefit of such officer or employee, the term of military leave shall be considered and accounted a part of his service under the city and county.

Persons serving in the armed forces of the United States or the State of California during time of war or during any emergency lawfully declared by the President of the United States, who have standing on an eligible list, shall retain their places thereon, and upon presenting an honorable discharge or certificate of honorable active service from such military service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, shall be preferred for appointment for a period of four (4) years after the proclamation of peace or the termination of said emergency in the order of standing upon such register at the time of entering such military service and before candidates procuring standing through an examination held subsequent to the entrance of such eligibles into the military service. If while in said military service the names of such persons are reached for certification to permanent positions, appointments shall be made to serve until such persons in the military service shall present to the civil service commission an honorable discharge or certificate of honorable active service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, but not more than one (1) year after the date of discharge of each such eligible, when they shall be certified and assume the duties of positions in said class and their certification to said positions for all purposes of seniority shall be deemed to be the date when their names on such eligible lists were reached for certification, provided that each appointee to a position shall serve such probationary period as is required in section 148 of this charter, and provided that such employee while serving on such probation shall be permitted to participate in any promotive examination to which his classification is eligible but shall not be entitled to certification by virtue of such promotional examination prior to satisfactory completion of said probationary period and provided further that no such persons shall be certified to entrance positions in the uniformed ranks of the police and fire departments under this provision who are more than thirty-five (35) years of age unless the names of such persons were reached for certification to such positions before such persons reached said age.

Persons who participate in a regular written civil service examination and who by reason of their active services in the Army, Navy or Marine Corps are unable to complete all parts of the examination, and who present their orders or other competent proof of service in the same manner as is required of eligibles, shall acquire standing on eligible lists in accordance with the relative excellence attained by participation in the part or parts of the examinations already completed; provided that upon presenting their honorable discharges or certificates of honorable active service within the time limits specified in this section covering eligibles, they must qualify in the remainder of the examinations. When qualified they shall be certified as of the date they would have been reached for certification in accordance with the relative excellence attained by their participation in the entire examination.

The civil service commission shall adopt rules to govern the administration of leaves as herein provided and to govern lay-offs occasioned by the return of officers, employees, or eligibles who have been appointed and granted leave or certified as provided in this section.

All leaves of absence granted under Rule 31.2 of the civil service commission are hereby ratified and approved.

For the purpose of certifications, appointments, leaves or any other matters concerning the rights of persons who are serving or have served in the armed forces of the United States or the State of California, the provisions of this section shall be retroactive to September 16, 1940, and any persons heretofore granted military leaves for any purpose other than to enter the armed forces of the United States or the State of California shall be deemed to have been granted war effort leaves by the civil service commission in accordance with the provisions of this section.

The civil service commission by rule and subject to the approval of the board of supervisors by ordinance, shall provide for leaves of absence, due to illness or disability, which leave or leaves may be cumulative, if not used as authorized, provided that the accumulated unused period of sick leave shall not exceed six (6) months, regardless of length of service, and provided further that violation or abuse of the provisions of said rule and ordinance by any officer or employee shall be deemed an act of insubordination and inattention to duties. [*Amended, 1941; 1943; 1944; 1947; 1951*]

A judgment for petitioner in mandamus compelling the Civil Service Commission to certify his name to the Board of Supervisors to the position of general clerk stenographer in such board properly provided that petitioner be granted a leave of absence, without pay, from his present position as general clerk typist in the recorder's office while serving the probationary period in the new office. **Ballf**

v. Civil Service Commission (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

The sick and disability leaves provided for employees of the city and county of San Francisco by § 153 of the Charter, rule 32 of the civil service commission, and part 1, § 301, of the Municipal Code, is not an element of the compensation of such employees, and is not governed by the provision of charter § 151.3 for regulation of rates of pay of municipal employees in certain crafts or groups by collective bargaining in private industry. Being treated separately from rates of pay in such legislation and determined by a different body (the Retirement Board), such sick and disability benefits have to do with welfare or working conditions rather than rates of pay, and inure to the benefit of all employees covered thereby, regardless of the provisions of charter § 151.3. **Adams v. San Francisco** (1949) 94 Cal. App. (2d) 586, 211 Pac. (2d) 368, 212 Pac. (2d) 272.

Reinstatement of and Leaves of Absence for Members of American Red Cross

Section 153.1. (a) Whenever any officer or employee of the City and County of San Francisco, or any non-certified employee of the Unified School District thereof, after the 8th day of December, 1941, and during the existence of the present war between the United States of America and the Axis Powers, has resigned from or relinquished his or her position under the government of the city and county, or under said Unified School District thereof, and within a period of sixty days thereafter has entered the service of the American Red Cross, as a social service worker, field director or assistant field director therein, said officer or employee after the termination of his or her service with said American Red Cross, and within the time limits prescribed by law for persons on military leave, shall be entitled to resume his or her position from which he or she resigned or which he or she relinquished, upon presentation of proof that said person did within sixty days after resigning from, or relinquishing, his or her position with the city and county, or with the Unified School District thereof, enter the service of the American Red Cross as a social service worker, field director or assistant field director. Service with the American Red Cross as a social service worker, field director or assistant field director, during the existing war shall be deemed to be service with the city and county insofar as seniority of service and compensation are concerned, and said person so serving with the said American Red Cross shall be deemed to be on military leave, and shall be entitled to all the rights and privileges accorded to other officers and employees of said city and county who have been granted military leave to serve in the armed forces of the United States, or of the State of California.

The rights and privileges herein granted to former officers and employees serving as social service workers, field directors or assistant field directors with the American Red Cross shall cease at the expiration of two years after the end of the present war between the United States of America and the Axis Powers, provided, however, that any person who severs his or her connection with the American Red Cross, and who fails to seek reinstatement to his or her position with the city and county, or with the Unified School District, within the time limits prescribed for persons on military leaves as defined in section 153 of the charter and rules of the civil service commission, shall not be entitled to reinstatement.

(b) From and after the effective date of this amendment military leave as provided in section 153 of this charter for those serving in the armed forces of the United States or of the State of California shall be granted for service with the American Red Cross as social service worker, field director or assistant field director. [*New section, 1945*]

Suspension and Dismissal for Cause

SECTION 154. No person employed under the civil service provisions of this charter, exclusive of members of the police and fire departments as provided under section 155, hereof, in a position defined by the commission as "permanent" shall be removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defense. Pending such hearing, the appointing officer may suspend the person so accused; but such suspension shall not be valid for more than thirty days, unless hearing upon the charge shall be delayed beyond such time by the act of the accused person. When charges are made, the appointing officer shall, in writing, notify the person accused of the time and place when the charges will be heard, by mailing such statement to his last known address. The appointing officer shall publicly hear and determine the charges, and may exonerate, suspend or dismiss the accused. If the employee is exonerated the appointing officer may, at his discretion, remit the suspension and may order payment of salary to the employee for the time under suspension, and the report of such suspension shall thereupon be expunged from the record of service of such employee. The civil service commission shall immediately be notified of the charges when made, of the hearing, and of the finding thereon. The finding of the appointing officer shall be final, unless within thirty days therefrom the dismissed employee appeals to the civil service commission. The appeal and all proceedings shall be in writing and shall briefly state the grounds therefor. The civil service commission shall examine into the case and may require the appointing officer to furnish a record of the hearing and may require in writing any additional evidence it deems material, and may, thereupon, make such decision as it deems just. The order or decision of the commission upon such appeal shall be final and shall forthwith be enforced by the appointing officer. If the civil service commission shall reverse or alter the finding of the appointing officer it may, in its discretion, order that the employee affected be paid salary from the time of his discharge or suspension.

The civil service commission may hear and determine any charge filed by a citizen or by the authorized agents of the commission when the appointing officer neglects or refuses to act. Removal or discharge may be made for any of the following causes: incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, inattention to duties, or engaging in prohibited political activites.

Nothing in this section shall limit or restrict rules adopted by the commission governing lay-offs or reduction in force.

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding thirty days; and suspension shall carry with it the loss of salary for the period of suspension. The suspended employee shall be notified in writing of the reason for such suspension, and if the suspension be for more than five days the employee shall, at his request, be given a hearing by the appointing officer. The decision of the appointing officer in all cases of suspension for disciplinary purposes shall be final. [*Amended, 1948*]

A temporary cessation or suspension from employment is not within the provision prohibiting removal or discharge except for cause, upon written charges and after an opportunity to be heard. **Weigle v. San Francisco** (1937) 23 Cal. App. (2d) 274, 72 Pac. (2d) 902.

Service of Notice.—Under a Charter provision forbidding discharge of any person in classified civil service except for cause stated in writing filed with the commission with certification that a copy of such statement had been served personally or by leaving a copy at the employee's last known address (Los Angeles Charter,

§ 112 (a)) the filing of the certificate showing the manner of service is jurisdictional, and this, irrespective of actual knowledge of the fact by the employee. **Shannon v. Los Angeles** (1928) 205 Cal. 366, 270 Pac. 682; **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

A board was not deprived of jurisdiction over proceedings to remove an officer by reason of want of a showing of due diligence to serve him with notice pursuant to a charter provision providing for service by sending a copy by registered mail to his last known address if after due diligence he could not be found (L.A. Charter, § 202(4)) where not only did the trial board know that the officer was absent from the United States and that a communication would not reach him, but it granted a rehearing on his request as an act of grace. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Grounds for Dismissal.—The dismissal of a civil service employee cannot be said to be without cause where it is predicated on the ground that the employee attempted to cause dissension among employees by circulating a handbill protesting against a book of rules adopted for conduct of employees. The right involved is not the constitutional right of free speech, but the right to exercise reasonable supervision over city employees to the end that activities among employees be not allowed to disrupt or impair public service. **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

Rehearing.—The Civil Service Commission has no power to rescind its order dismissing an employee from his position in the municipal civil service in the absence of express authorization. **Heap v. Los Angeles** (1936) 6 Cal. (2d) 405, 57 Pac. (2d) 1323, quoted in **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367.

A delayed petition for writ of mandate to compel reinstatement to a civil service position from which the petitioner had been discharged, must allege facts excusing the delay. **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

Delay in Instituting Proceedings.—One seeking mandamus to compel his reinstatement to a civil service position from which he has been dismissed must act promptly. An unexcused delay of nine months in invoking the remedy would bar relief in view of the prejudice to the City in case the petitioner should be successful and the City would be required to compensate him for services performed by others who had been compensated therefor. **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

The remedy by certiorari will lie to review the proceedings of a Civil Service Commission resulting in the dismissal of one in the classified civil servce. **Swars v. Vallejo** (1944) 64 Cal. App. (2d) 858, 149 Pac. (2d) 397.

Authority to Discharge.—Under charter provisions to the effect that the health officer of a city is the general manager and chief administrative officer of the health department, that the general manager of each department shall have power to appoint and discharge employees therein subject to the provisions of the charter, etc., and that the health officer is an officer of a city having power to discharge employees in the department with certain exceptions (Los Angeles Charter, §§ 151, 80, 5), the health officer has authority to discharge employees other than those excepted. **Nunes v. Board of Civil Service Commissioners** (1948) 88 Cal. App. (2d) 632 (88 ACA 645), 199 Pac. (2d) 311.

Where a city charter provides that appointment from an eligible list shall be on probation "of a character" fixed by the Civil Service Board, and the rules of such board specify that a probationer shall be subject to removal at the determination of the appointing power with the single limitation that the board must approve such removal, a probationer is subject to removal by the appointing power without either charges or trial at any time before the expiration of the probationary period, subject only to the limitation stated. **Snelling v. Civil Service Board** (1949) 90 Cal. App. (2d) 865, 204 Pac. (2d) 358.

Lack of Work.—The suspension of civil service employees for lack of work in their class is not subject to the objection that there was in reality no lack of work because of the reclassifications of the positions, where there was merely a redistribution of duties performed to other classes suitable for inclusion therein in the first instance, not amounting to an abuse of discretion. A change of duties does not amount to a reclassification of position in the absence of a showing of abuse of discretion.**Carter v. Los Angeles** (1948) 31 Cal. (2d) 341, 188 Pac. (2d) 465.

The sheriff is not disqualified from sitting in judgment of proceedings against a jailer by the fact of prejudice or bias, since an otherwise disqualified administrative officer may act if his failure would result in a miscarriage of justice. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

The provision forbidding removal except "upon written charges" is satisfied by a letter from the appointing officer and an accompanying police report setting forth the facts and circumstances on which the accusation is based. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

The fact that a letter of the sheriff to a jailer improperly charges him with "incompetence" as well as insubordination is immaterial where the letter and the accompanying police report fully set forth the facts and circumstances on which the accusation is based.**Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

Any of the following grounds set forth in a notice of discharge is a sufficient reason for discharge of a public employee of the health department: Conducting personal business on health department time, laxity in performance of duties, indulgence in alcoholic drinking while on duty, and laxity in supervision of employees and taking action that contributed toward misconduct and laxity in duty on the part of subordinates. **Nunes v. Board of Civil Service Commissioners** (1948) 88 Cal. App. (2d) 632, 199 Pac. (2d) 311, under the Los Angeles Charter.

An order sustaining the discharge of a public employee of the health department of a city is sustained by evidence of drinking intoxicating liquor during working hours and failure to correct unsanitary conditions found as required by the duties of his office. **Nunes v. Board of Civil Service Commissioners**, 88 Cal. App. (2d) 632, 199 Pac. (2d) 311, under the Los Angeles Charter.

Delay in hearing.—Under a charter providing that within fifteen days after filing of a statement of grounds for discharge of an employee the civil service board on its own motion may, or on application of the employee filed within five days after service of the statement shall, proceed to investigate the grounds (Los Angeles Charter, § 112), the board does not lose jurisdiction by delay in the conduct of a hearing; but if the appointing power be derelict in prosecuting the discharge proceeding, a motion to discharge on that ground is proper. **Steen v. Los Angeles** (1948) 31 Cal. (2d) 542, 190 Pac. (2d) 937.

A civil service board did not abuse its discretion in refusing to dismiss a discharge proceeding for delay in prosecuting it where the employee procured a reversal of a superior court judgment refusing to annul the board's sustaining of the discharge, but after the going down of the remittitur took no further steps with the result that the review proceeding was still pending without a judgment. **Steen v. Los Angeles** (1948) 31 Cal. (2d) 542, 190 Pac. (2d) 937.

Appeal to Commission.—The action of the Civil Service Commission in ordering "that this appeal be denied" is not beyond jurisdiction where the commission did in fact entertain the appeal and its order means that the application for reversal of the decision dismissing the employee is denied. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

The provision that the commission on appeal "may require in writing additional evidence" does not authorize the admission of evidence which could not have been admitted on the trial itself, such as unsworn letters. **Scannell v. Wolff** (1948) 86 Cal. App. (2d) 489, 195 Pac. (2d) 536.

A police officer is not denied a fair and public hearing of an appeal from a discharge where the city charter authorizes the Civil Service Commission by unanimous vote to order a closed hearing and its order is based on sound reason, the provisions of Const., art. 1, § 13, and Code of Civil Procedure § 124 not being applicable to such hearing. **Swars v. Council of City of Vallejo** (1949) 33 Cal. (2d) 867, 206 Pac. (2d) 355.

The fact that a municipal civil service commission, on appeal and after a hearing, upheld the discharge of a police officer raises a presumption that the existence of the necessary facts was ascertained and found, especially where there was but one charge against him for misconduct of a given type on a specific occasion. **Swars v. Council of City of Vallejo** (1949) 33 Cal. (2d) 867, 206 Pac. (2d) 355.

Administrative findings may be general so long as they satisfy the dual requirements of making intelligent review by the courts possible and apprising the parties of the basis of the administrative action. **Swars v. Council of City of Vallejo** (1949) 33 Cal. (2d) 867, 206 Pac. (2d) 355.

A decision of a municipal civil service commission is sufficiently clear to meet the informal standards required of administrative agencies where it states that it upholds the action taken by the city council in the adoption of a resolution, wherein the office of police sergeant held by a named person was declared vacant and he was dismissed, and where the resolution made clear the basis for the charge and specifically stated the facts in regard to it and where the findings in the resolution were incorporated in the decision by reference. **Swars v. Council of City of Vallejo** (1949) 33 Cal. (2d) 867, 206 Pac. (2d) 355.

In a mandamus proceeding to compel reinstatement of employees laid off for lack of work in their class following a redistribution of work, inquiry into extraneous facts merely to determine the motive of the department in making the redistribution is not proper. **Carter v. Los Angeles** (1948) 31 Cal. (2d) 341, 188 Pac. (2d) 465.

Mandamus will lie to compel reinstatement of civil service employees, where the board issued an order abolishing the positions without conforming to charter requirements by filing with the Civil Service Commission any charges or reasons for discharge, removal, suspension, lay-off or abolition of the positions. **Borch v. City of Los Angeles** (1949) 94 CA (2d) 458, 210 Pac. (2d) 736.

Fire and Police Disciplinary Procedure

SECTION 155. Members of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments, shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three months, or by dismissal, after trial and hearing by the commissioners of their respective departments.

Members of either department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense.

A rule of the police department requiring members of the department to testify without reservation in any investigation conducted before the grand jury as well as in all cases before courts is not subject to attack on constitutional grounds. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The general law requiring that rules and regulations for government of the police department shall prescribe a separate and distinct penalty for violation of each rule and regulation (See Stats. 1911, p. 1160; Deering's Gen. Laws, Act 6014) has no application in San Francisco. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

Grounds for Dismissal.—The exercise by a police officer of his privilege against testifying in a grand jury investigation into the question of his commission of crime, is cause for dismissal, even in the absence of any specific rule requiring an officer to testify before the grand jury or relating to conduct unbecoming an officer. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

Neglect of Duty.—A police officer is properly found to be guilty of neglect of duty justifying his discharge where, having been on military leave pursuant to a Charter provision providing that during service in the "armed forces" of the United States and for 90 days after discharge officers shall be considered on leave of absence (L.A. Charter, § 17), he does not return to service following his discharge, but, without seeking leave, enrolls in the merchant marine. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Pub. Law 87 (50 U.S.C.A. App. 1472) declaring in effect that it is the sense of Congress that a person leaving employment of the state or a political subdivision for service in the merchant marine should be restored to his position or a position of like seniority, status and pay, is not binding on a city in the absence of the adoption of an appropriate California statute. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Investigation by Grand Jury.—A police officer is before the grand jury so as to justify dismissal proceedings in case of his refusal to testify where, despite a defect in the subpoena or the service thereof, he is actually before that body attempting to enter a special appearance to challenge the validity of the process. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

Fair and Impartial Trial.—There was no showing of bias on the part of a police commissioner sufficient to disqualify him from participating in the trial of a police officer for his refusal to testify in a grand jury investigation where it was shown merely that he had publicly announced that the failure of any officer to testify frankly before the grand jury would be considered unofficerlike conduct, that he had been active in amending the rules during the investigation so as to require officers to testify therein, and that he intended to enforce the amended rule strictly. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The requirement of due process in the removal of a police officer is satisfied where he is accused, notified and fairly tried in conformance with Charter provisions. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) (81 A.C.A. 1055), 185 Pac. (2d) 430.

The charge against a police officer in the form of an ordinary complaint and verified in the form prescribed for verification of pleadings in civil actions is sufficient in form. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

The complaint against a police officer may be verified before the Chief of Police in view of § 4, and Pol. Code, §§343 (now Gov. Code, § 1001), 1028. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The penalty imposed by the Board of Police Commissioners upon a member of the department found guilty of the charges brought against him involves its discretion; not its jurisdiction. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

The authority conferred upon the Board of Police Commissioners by this section is pursuant to the Constitution and is of a judicial character exercised by a quasi-judicial body. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

The duty of the Board of Police Commissioners on a trial of charges against a member of the police department or on a hearing after his conviction to fix his punishment could not be diminished nor extended by his prior acquittal of charges brought by the grand jury. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

Rehearing.—The police commission has no power to rehear a proceeding resulting in an order removing a police officer, in the absence of express authority. The power to punish after hearing does not carry the express power to revoke or to reinstate. **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367. See to same effect **Proud v. McGregor** (1937) 9 Cal. (2d) 178, 70 Pac. (2d) 194, with respect to the power of the police commission of Santa Barbara.

Review.—When a police board, vested with full power to determine guilt of a police officer, has acted in accord with prescribed procedure, a superior court has no power or authority to determine whether the grounds on which his discharge was based were well founded. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) 888, 185 Pac. (2d) 430, 334 U. S. 825, 68 S. Ct. 1338.

On certiorari to review an order of the Police Commission dismissing an officer from the department, the court is called on to review whether the pleading stated facts sufficient to confer jurisdiction, but this is not the proper remedy in which to contest the truth as to jurisdictional facts. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 426; **Redding v. Los Angeles (1947)** 81 Cal. App. (2d) 888, 185 Pac. (2d) 430, 334 U. S. 825, 68 S. Ct. 1338.

An order of the Board of Police Commissioners dismissing a lieutenant will not be set aside by the courts where such order is made by the board in the proper exercise of its discretionary Charter powers and after a formal charge, trial and conviction. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

Pleading.—Where a Charter confers discretionary power upon a police board to determine whether a police officer has been guilty of neglect of duty, a complaint which alleges that the board heard evidence offered by the complainant officer and derived its decision therefrom does not state a cause of action for a writ to compel reversal of the decision and restoration of the officer to his position. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) 888, 185 Pac. (2d) 430, 334 U. S. 825, 68 S. Ct. 1338.

Reinstatement.—When a police officer has by due process of law forfeited his right to be on the police force, the Chief of Police is without authority to restore him. To regain his position, he must pursue the route followed by any citizen who seeks to become a police officer. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) 888, 185 Pac. (2d) 430, 334 U. S. 825, 68 S. Ct. 1338.

Effect of Acquittal.—Under a charter provision (Los Angeles Charter, art. xix, § 202 (16)) providing that on request of a dismissed police officer to be reheard, the Chief of Police shall cause a board to be constituted for the purpose of rehearing the matter "if good reason or cause appears therefor," the Chief of Police in determining the existence of good cause is not bound by an acquittal of the officer on the second trial of the criminal charge against him. **Skaggs v. Horrall** (1948) 83 Cal. App. (2d) 424, 188 Pac. (2d) 774.

Demand for Reinstatement.—A city charter provision requiring an employee claiming that he has been unlawfully suspended, laid off, or discharged to file a demand for reinstatement within a specified time as a condition precedent to an action for reinstatement is applicable to resignations obtained under coercion or duress, regardless of whether the action is one in equity to have the resignation canceled or a proceeding in mandamus to compel reinstatement. **Temple v. Horral** (1949) 92 Cal. App. (2d) 177, 206 Pac. (2d) 909.

A charter provision setting forth procedure for discharge of a city employee pursuant to charges filed against him does not apply to a case of alleged forced resignation. **Temple v. Horrall** (1949) 92 Cal. App. (2d) 177, 206 Pac. (2d) 909.

Under the Los Angeles city charter provision prohibiting dismissal except for sufficient cause shown on a finding of guilty of specific charge, physical disability resulting from illness not incurred in line of duty may be sufficient cause for removal. **Hostetter v. Alderson** (1952) 38 Cal. (2d) 499, 241 Pac. (2d) 230.

Similar charter section construed. **English v. Long Beach** (1952) 114 ACA 384, 250 Pac. (2d) 298.

The mere fact that an officer has been indicted does not, under the Los Angeles City Charter, furnish legal ground for his suspension, dismissal, or other disciplinary action; it does justify an order temporarily relieving him from duty. **Lorenson v. Los Angeles** (1953) 116 ACA 679, ... Pac. (2d) ......

Transfer of Disabled

SECTION 156. When a permanent civil service employee other than a member of the fire department and police department who has served not less than three (3) years in his position, has become incapable through advanced age, accident or other disability, of performing the duties of his position, the civil service commission may, with the consent of the appointing officer or appointing officers involved, transfer him to a position within his capacities to perform, whether or not within the classification for which he qualified for appointment, but such position shall not be in a classification having a higher compensation schedule than the one from which he is transferred, and his compensation shall not thereafter be increased beyond the maximum salary for the classification to which such employee is transferred, nor in any event shall his salary be increased to equal the salary such employee would have received had he remained in his former position; provided, however, that a permanent employee, including any permanent member of the fire department and police department, who has become incapable of resuming his former position through disability incurred while on active service with the armed forces while on military leave may upon application after his discharge from military service be transferred under the provisions of this section, regardless of his length of service.

Employees transferred under the provisions of this section may, upon recovery from the disability, and with the consent of the civil service commission, return to a vacancy in their former classification.

Positions filled under the provisions of this section shall not be subject to salary standardization, but the salaries thereafter shall be fixed by the civil service commission within the limitations herein set forth, provided, however, that salaries of such employees who were transferred from or to positions the compensations for which are subject to section 151.3 hereof may be revised as of July 1st within the limitations herein set forth to reflect rates of pay adopted under the provisions of section 151.3 for the then ensuing fiscal year by appropriate amendment to the annual appropriation ordinance and annual salary ordinance but without reference or amendment to the annual budget. The civil service commission shall make rules to carry out the intent of this section and such rules shall govern all transfers made under the provisions of this section. [*Amended, 1944; 1946; 1953*]

Prohibition of Political Activity

SECTION 157. Active participation in city and county politics, relative to the election or appointment of public officials, by civil service employees and eligibles of the city and county, is subversive of the best interests of the merit system and, therefore, persons holding positions in the classified civil service or on eligible lists for such positions shall take no active part in such political campaigns, or in soliciting votes, or in levying, contributing or soliciting funds or support, in each case for the purpose of favoring or hindering the appointment or election of candidates for city and county offices. Violation of the provisions of this section shall be deemed an act of insubordination and considered good cause for suspension or dismissal from position or removal from eligible list.

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

Prohibition of Political Activity

SECTION 157. Active participation in city and county politics, relative to the election or appointment of public officials, by civil service employees and eligibles of the city and county, is subversive of the best interests of the merit system and, therefore, persons holding positions in the classified civil service or on eligible lists for such positions shall take no active part in such political campaigns, or in soliciting votes, or in levying, contributing or soliciting funds or support, in each case for the purpose of favoring or hindering the appointment or election of candidates for city and county offices. Violation of the provisions of this section shall be deemed an act of insubordination and considered good cause for suspension or dismissal from position or removal from eligible list.

PENSIONS AND RETIREMENT

Retirement System for Officers and Employees

SECTION 158. In order to continue in force, with modifications as are set forth in this charter, provisions already existing for retirement and death benefits for officers and employees of the city and county, the San Francisco City and County Employees' Retirement System, hereinafter referred to as the retirement system or the system, is hereby created. Elective officers and members of boards and commissions shall not be eligible to the benefits of said retirement system. Officers who are made appointive by this charter, as well as officers and employees of offices heretofore not under the retirement system and who are brought under the said system by this charter, who shall have attained the age of at least seventy years on the date said charter becomes effective, shall not become members of the retirement system. Such officers and employees who shall not have attained the age of seventy years on such date shall become members of said retirement system on the date this charter becomes effective and any benefits granted on account of service excluding service rendered as lawful members of the retirement system, rendered by said officers and employees to the city and county prior to such date shall be provided by contributions of the city and county.

Ordinance No. 5561 (New Series) and amendments thereto, now establishing the employees' retirement system, shall continue in force until amended or revoked by the board of supervisors as provided in this section. The board of supervisors is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of sections 158 to 172, both inclusive, of this charter; provided that the board of supervisors shall secure, through the retirement board, an actuarial report of the cost and effect of any proposed change in the benefits under the retirement system, before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change.

Pension laws are to be liberally construed and applied to the end that the beneficent policy thereby established may be accorded proper recognition. Brant v. Retirement Board (1943) 57 Cal. App. (2d) 721, 135 Pac. (2d) 396; Dornell v. Retirement Board (1945) 72 Cal. App. (2d) 197, 164 Pac. (2d) 266.

The right to a pension is a continuing right, but the pensioner has no right to a specific sum, and the amount may be reasonably increased or decreased. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

A Charter requirement that an employee should hold a position for a fixed period of time before he is eligible for a pension is not unreasonable or unjust, particularly to one who has actually served the allotted period. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

Pension rights under the Charter vest only upon the happening of the contingency or event upon which the right thereto accrues, and not at the time of the adoption of the Charter provision. **Jordan v. Retirement Board** (1939) 35 Cal. App. (2d) 653, 96 Pac. (2d) 973.

Without regard to the time of the vesting of pension rights, it is an implied condition of employment, and hence a condition of such vesting that the duties of the employee shall have been faithfully performed. **MacIntyre v. Retirement Board** (1941) 42 Cal. App. (2d) 734, 109 Pac. (2d) 962.

The rights vested by a charter provision relating to pensions may not be denied by a strained judicial construction. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) 714, 196 Pac. (2d) 94.

Under provisions of a city charter providing for a pension to police officers or firemen on necessary retirement because of injury or sickness as the result of their duties (Long Beach Charter, art. xvi, on acceptance of employment by an applicant, and becomes vested § 187(3); Stats. 1931, p. 2787), the right to a pension becomes vested as to each employee at least on the happening of the contingency on which the pension becomes payable. **Holt v. Board of Police and Pension Commissioners** (1948) 86 Cal. App. (2d) 714, 196 Pac. (2d) 94.

Where the effective date of a county ordinance establishing a retirement system pursuant to the County Employees' Retirement Law of 1937 (Gov. Code § 31450 et seq.) is within the period of suspension of the constitutional prohibition against increasing the salaries of elective officers during their term of office for one year after the cessation of hostilities in a war (Const., art xi, § 5), but the operative date of such ordinance as established by the enabling legislation is outside such period, the effective date, whereon the rights of such officer under the ordinance become vested, is controlling in determining whether an officer elected before establishment of the retirement system is entitled to membership therein, the operative date of the ordinance being a mere procedural adjunct. **Ross v. Board of Retirement** (1949) 92 Cal. App. (2d) 188, 206 Pac. (2d) 903.

Where a police officer, on the effective date of a charter amendment repealing pension provisions as to employees who have not completed twenty years' service as of such date, lacks two days of completing twenty years' service under a pension system entitling him to retire on half pay at the end of such period, such impairment of the officer's vested pension right is unconstitutional and ineffective as to him. **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

Where a police pension system provides that participants may retire on half pay at the end of a certain period of service, the pension to be increased by graduation for additional service after such period, a saving clause in a charter amendment repealing the pension provisions may limit the pension payable to those having the necessary period of time served on the effective date of such amendment to the amount to which they were entitled as of that date, and dispense with the increase for additional service. **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

A practice of a city board of pension commissioners, permitting officers and employees of the police and fire departments to receive credit for time spent by them on furlough or leave of absence toward the time necessary to entitle them to receive their retirement pension, establishes a policy amounting to a departmental rule of action. **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

Where by law or by an established rule or practice of the administrators of a pension system, time spent on leave of absence or furlough is included in computing the time required to be served in order to qualify for retirement on pension, a returning veteran is entitled to have the time spent in the Armed Forces included in the computation of his service for the purpose of qualifying for a pension, just as though he had been on an ordinary furlough or leave of absence. (Const., art. xx, § 3.5; Mil. & Vet. Code, § 395.1, subd. (c)). **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

It was within the power of a city to modify its pension plan to provide that on and after the effective date of the amendment an employee who was entitled to retire might do so or not, as he saw fit, but that if he chose to continue as an employee he could not thereby earn any additional pension above that to which he was entitled on the effective date of the amendment. **Allen v. Long Beach** (1950) 101 Cal. App. (2d) 15, 224 Pac. (2d) 792.

A municipal employee has a vested right only to a substantial or reasonable pension and his contractual right to such a pension is not impaired by legislation which, operating prospectively, merely withdraws any right or option to earn a bonus by continuing in employment after he has become eligible for retirement. **Allen v. Long Beach** (1950) 101 Cal. App. (2d) 15, 224 Pac. (2d) 792.

The good judgment of the electorate and the advisability of the modification of pension rights under a municipal charter are matters not subject to review by the courts. **Allstot v. Long Beach** (1951) 104 Cal. App. (2d) 441, 231 Pac. (2d) 498.

In amending the system of benefits provided by the pension provisions of a municipal charter, it is not unreasonable to give recognition to the fact that those employees who, at the effective date of the amendment, have served for longer periods, have acquired more substantial pension rights than those who entered the service later. **Allstot v. Long Beach** (1951) 104 Cal. App. (2d) 441, 231 Pac. (2d) 498.

The courts will not interfere with a classification of municipal employees for pension purposes unless it is arbitrary and unreasonable. **Allstot v. Long Beach** (1951) 104 Cal. App. (2d) 441, 231 Pac. (2d) 498.

•

Retirement of Elective Officers

Section 158.1. Notwithstanding the provisions of section 158 of this charter, elective officers, except members of the board of supervisors and of boards and commissions, shall be members of the San Francisco City and County Employee's Retirement System and shall be subject to all of the conditions applying to other members thereof, except members of the fire and police departments, and except as herein otherwise provided. In the determination of contributions and benefits of any officer becoming a member of the retirement system by virtue of the provisions hereof, that part of the salary of such officer which exceeds one thousand dollars ($1,000) per month shall be excluded. Elective officers in office on the effective date hereof and otherwise eligible to the provisions hereof shall have the option to become members of said retirement system to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof. Each such present and future elective officer may retire at his option but only after having attained the age of seventy years and only after having occupied such an elective office or having been otherwise employed in a position subject to membership in the retirement system for at least twenty years immediately preceding retirement, and may retire by filing written application therefor with the retirement board, and the mayor shall thereupon appoint a qualified person for the unexpired term of office remaining at the time of any such retirement. Such elective officer shall thereafter receive a retirement allowance equal to one-half of the compensation received by him at the time of retirement, provided that such allowance shall not exceed five hundred dollars ($500) per month. Contributions required to provide the portion of the benefits under this section not provided by the member's contribution shall be paid to the retirement system by the city and county. [*New section, 1947*]

Retirement of Elective Officers (Continued)

Section 158.2. Notwithstanding the provisions of section 158.1 of this charter, elective officers, except members of boards and commissions, shall be members of the San Francisco City and County Employees' Retirement System under section 165.2 instead of section 158.1; and, notwithstanding the provisions of subdivision (B) of section 165.2, elective officers who are members of the retirement system under section 165.2 shall be retired on the day following the end of the term of office in which the age of seventy years is attained. Contributions, with credited interest, standing to the credit of such individual officers shall be adjusted, as of the effective date hereof, to the amount which they would have been if the contributions had been made in accordance with section 165 prior to July 1, 1947 and section 165.2 after June 30, 1947. Time during which said members have rendered service as elective officers shall be included under subsection (G) of section 165.2, in addition to other time now so included. Contributions required to provide benefits based on service rendered as an elective officer prior to the effective date of membership in the retirement system, shall be paid to the retirement system in the manner provided in section 165.2 for contributions for service rendered prior to the date upon which the member's rate of contribution is based. Elective officers in office on the effective date of this section who are members of the retirement system under section 158.1 at such time, shall have the option to continue as members of the retirement system under section 158.1 instead of this section, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof. [*New section, 1953*]

Retirement—Court Employees and Attaches

SECTION 158.3. Employees and attaches of the superior or municipal court, including persons performing duties now performed under the titles of commissioners, phonographic reporters who are paid compensation on a monthly or per diem basis by the city and county, secretaries, stenographers, investigators, messengers and other employees of the superior and municipal courts, in and for the City and County of San Francisco, shall be members of the San Francisco City and County Employees' Retirement System under section 165.2, and shall be subject to all of the conditions applying to other members under that section, except as herein otherwise provided.

Service rendered to the said superior or municipal court in and for the city and county, other than as a phonographic reporter, by persons prior to becoming members under this section on the effective date of this section, hereby declared to be the first day of the month next following its ratification by the Legislature, shall be credited under the retirement system to such persons, provided that it would have qualified for credit when rendered, if said persons had been subject then, as they will be under this section, to the provisions of section 165.2 of this charter and of the ordinances and provisions of the Municipal Code of the City and County of San Francisco relating to retirement of members under said section.

Service rendered to said superior court on and after September 15, 1945, or to said municipal court on and after September 1, 1947, by phonographic reporters prior to becoming members under this section on the effective date of this amendment shall be credited under this retirement system to such persons.

Said service, rendered prior to becoming a member under this section on the effective date of this section, shall only be credited to each of such persons if he elect, by written notice, on a form provided by the retirement system, filed in the office of the retirement board of said system prior to July 1, 1953, to receive credit for all or any part of said service, and to pay into the retirement fund, at times and in the manner hereinafter provided, the following amounts: (1) an amount equal to the normal contributions he would have contributed, had he been a member of the retirement system under section 165.2, during the time for which he has elected to receive credit for service, on the basis of compensation paid to him by the city and county on account of said service, and (2) an amount equal to the interest which would have been credited to his account on account of such contributions from the date upon which they would have been made, to the date of payment of such contributions to the retirement system. However, a member shall not receive credit for any portion of such service rendered prior to April 1, 1922, unless he has elected to receive credit for, and has paid into the retirement fund such amounts with respect to, all of said service rendered after March 31, 1922. Such amounts shall be paid into the retirement fund by lump sum payment, or pay roll deductions or other installments, over a period not exceeding thirty-six months from July 1, 1953, provided that any balance remaining unpaid at his retirement shall become due and payable forthwith. Benefits, not provided by such amounts, granted to said persons on account of said service rendered prior to the effective date of membership under this section, shall be provided by contributions of the city and county. Such service shall include time during which such person was absent from a status included in the paragraph above by reason of service in the armed forces of the United States in any war in which the United States has engaged.

Notwithstanding the foregoing provisions, any such employee or attache not already a member of the system and who is such an employee or attache on the effective date of this amendment, shall not become a member of the retirement system, unless he elect prior to July 1, 1953, on a form provided by the retirement system, to be a member of said system, and if he does not so elect, he shall not be a member of the retirement system, and shall not be prevented from continuing in such employment by reason of such provision. [*New section, 1953*]

Retirement Board

SECTION 159. The retirement system shall be managed by a retirement board, which is hereby created, and which shall be the successor and have the powers and duties of the board of administration, the board of trustees of the police relief and pension fund and the board of fire pension fund commissioners. The retirement board shall consist of the president of the board of supervisors, the city attorney, a resident official of a life insurance company, and an officer of a bank to be appointed by the mayor, and three members elected from the active members, who shall not include retired persons of the retirement system, provided that the city attorney may designate, by written document filed with the said retirement board, an assistant city attorney to attend meetings of the said board and to act for him and in his place. The term of office of the five members, other than the ex officio members, shall be five years, one term expiring each year and the terms of such five members now holding office being unchanged by this section. The members of the retirement board shall serve without compensation. The board shall appoint an actuary, who shall hold office at its pleasure, and may appoint a secretary, provided that the positions of secretary and actuary may be consolidated into one position by the said board, and the board may employ a consulting actuary from time to time. The secretary or actuary shall have the power to administer oaths and affirmations in all matters pertaining to the business of the retirement system.

The retirement board shall be the sole authority and judge, under such general ordinances as may be adopted by the supervisors, as to the conditions under which members may receive and may continue to receive benefits of any sort under the retirement system, and shall have exclusive control of the administration and investment of such fund or funds as may be established, provided that all investments shall be of the character legal for insurance companies in California.

The Retirement Board is not a state-wide administrative Board, but is a local board which may constitutionally be invested with quasi-judicial powers. **Ware v. Retirement Board** (1949) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

The Charter confers judicial powers on the Retirement Board, and its findings based on conflicting evidence are binding on the courts. **Nanghton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 714; **Dornell v. Retirement Board** (1945) 72 Cal. App. (2d) 197, 164 Pac. (2d) 266. See **Brant v. Retirement Board** (1943) 57 Cal. App. (2d) 721, 135 Pac. (2d) 396, stating that the question whether the Charter conferred judicial power on the Retirement Board was not free from doubt, and assuming that the board exercised judicial functions.

Quasi-judicial powers have been conferred on the Retirement Board by the Charter and Municipal Code. **Hogan v. Retirement Board** (1936) 13 Cal. App. (2d) 676, 57 Pac. (2d) 520; **Murphy v. Retirement Board** (1942) 49 Cal. App. (2d) 58, 121 Pac. (2d) 101; **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

The Retirement Board constitutionally has been invested with quasi-judicial power to determine, in the first instance, whether or not any applicant is entitled to retirement benefits. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

One who becomes mentally incompetent while in the City employ and remains mentally incompetent thereafter, but fails to file an application for benefits for seven years during which period she has no guardian, is entitled to have the Retirement Board pass upon her application for benefits. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

On mandamus to review an order of the Retirement Board refusing petitioner a hearing of her application for benefits on the ground that she was no longer a member of the retirement system, the superior court is limited to determining whether or not the board regularly pursued its authority in the matter, and may not, in the first instance, pass upon the factual issues the determination of which has been conferred on the board. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

The Sacramento city charter provision for reduction of allowances by the amounts payable under the workmen's compensation laws, when read with another charter section under which the retirement board is the sole authority and judge under such general ordinances as may be adopted by the city council to determine when members may receive benefits under the retirement system, merely gives the city council the power to prescribe rules to guide the retirement board in making its determination of the amounts to be deducted in any particular case coming within the charter provision. **Lyons v. Hoover** (1952) 114 ACA 445, 250 Pac. (2d) 279.

See also, § 19.

Actuarial Tables, Rates and Valuations

Section 160. The mortality, service and other tables and the rates of contribution for members as recommended by the actuary and the valuations determined by him and approved by the retirement board shall be conclusive and final, and the retirement system shall be based thereon. The total amount, as determined by the actuary and approved by the board, of the contributions required during any fiscal year of the city and county under the retirement system shall be paid into the retirement system by the city and county during such year. Liabilities accruing under the retirement system because of service rendered to the city and county by persons prior to the date their respective classes become eligible for membership in the system, and administrative costs under the system, shall be met by contributions to the retirement system by the city and county, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the system, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service.

Contributions to the retirement system required of the city and county shall be charged by the controller against the general fund or the school, utility, bond or other special fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any person prior to becoming a member of the system, under a temporary fund, such as bond or county roads funds, or a fund then no longer existing, may be charged against the general fund, and provided further, that any contributions required on account of persons receiving benefits under subdivision (c) of section 165, shall be charged against the general fund.

Continuous Service

Section 161. Continuous service shall be defined by the board of supervisors, but the absence prior to September 14, 1940, of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

On and after September 14, 1940, a member is absent on military service when he is absent from city service by reason of (1) service with the armed forces of the United States or the State of California; (2) service on ships operated by or for the United States government when such service is granted as "military leave" pursuant to section 153 of the charter; (3) service connected with the war effort for which leaves of absence shall be authorized pursuant to section 153 of the charter; or (4) any other service, under an order of the government of the United States or the State of California, or by lawful order of any of the departments or offices of said governments, provided that such absence in any of such services occurs (1) either during a war involving the United States as a belligerent or in time of national emergency, declared by the President of the United States or by the Congress, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty with said armed forces or said ships when such disability extends beyond such period; or (2) in time of peace if he is drafted for such services by the United States government or volunteers for such service while subject to such draft.

For the purposes of this section a war involving the United States as a belligerent exists: (a) whenever Congress has declared any war which has not been terminated by any truce, treaty of peace, or otherwise; (b) whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or (c) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security. [*Amended, 1935; 1941; 1943; 1944; 1952*]

Section 161.1. Any member so absent on military service may contribute to the retirement system during such absence, at times and in the manner prescribed by the board, amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit for the absence as service in the manner as if he had not been absent. If, however, a member does not affirmatively exercise the option herein provided, or if he exercised it affirmatively and defaults in any of the contributions due to the retirement system under said election, and in either event if such contributions are not made for him, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit as service for the city and county for such period; but the absence during such period shall not break the continuity of such service required of such member to entitle him to a retirement allowance, as provided under the retirement system.

Any member who was absent on military service and who did not make the contributions as provided in this section, and whose contributions are not paid for him by the city and county as provided herein, may make such contributions upon his return to city service at times and in the manner prescribed by the board. If he does so contribute, he shall receive credit for the absence as service in the same manner as if he had not been absent.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county in respect to such absence that would have been made if the member had not been absent on military service, except that such contributions shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence. [*New section, 1952*]

SECTION 161.2. Notwithstanding other provisions of this charter to the contrary, the city and county shall contribute for each member of this system who was absent on military service after September 14, 1940, amounts equal to the contribution which would have been made by such member and the City and County of San Francisco on the basis of his compensation earnable at the commencement of his absence, provided that the member's base pay in such military service is less than $100.00 per month, and provided, further (1) that if the absence in military service was by reason of service in the armed forces of the United States; (2) that the absence began on or after June 25, 1950; and (3) that the member's base pay in such service was less than $250.00 per month, the city and county shall pay the contributions which would have been made by both the member and the city and county on the basis of his compensation earnable at the commencement of his absence. Contributions made by the city and county, in lieu of contributions which otherwise would be required of the member, shall be administered as if made by said member as normal contributions. Any such member who exercises or did exercise the right to contribute to the system during the period of absence on military service, and whose contributions otherwise would be paid by the city and county under this section, shall have his contributions plus credited interest, refunded. [*New section, 1952*]

Definition, Members of Fire and Police Departments

Section 162. For the purposes of the retirement system, any officer or employee of the police or the fire departments whose employment therein began prior to January 1, 1900, or whose employment therein began on or shall begin after that date and was or shall be subject to a charter maximum age at the time of employment of not over thirty-five years, shall be considered to be a member of the police department or the fire department, respectively. Any fire or police service outside the limits of the city and county performed by a member of the retirement system and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

Pensions of Retired Persons

Section 163. (a) No person retired for service or disability and in receipt of a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

(b) Should any retired person, except persons retired for service prior to January 8, 1932, and persons retired because of disability incurred in the performance of duty, engage in a gainful occupation prior to attaining the age of sixty-two, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the compensation on the basis of which his pension or retirement allowance was determined.

The provisions of paragraph (b) of this section shall be inoperative during the existing war between the United States and the Axis Powers and for six (6) months after the termination of said war. [*Amended, 1945*]

Reading this section in connection with §§ 165, 166 and 167, it is clear that existing police officers will be members of the retirement system only if they were in active service as such on January 8, 1932. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

A captain of detectives in the police department, who after his retirement under the old Charter was holding the office of City Treasurer, but who relinquished his pension and his salary, could become a candidate for Treasurer under the new Charter, since the inhibition of this section applies only to members of the retirement system declared such by the new Charter. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

Inasmuch as a fireman's right to a pension does not become vested until the happening of the contingency upon which the pension becomes payable, the pension of a fireman who was appointed prior to the operative date of the present Charter, and who prior to that date had served a substantial part of the time required to entitle him to a pension was subject to the provision requiring a reduction of a pension when a retired person engaged in gainful occupation. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The 1945 amendment to the section providing that it "shall be inoperative" during the existing war, etc., is not retroactive, and applies only from the date of the amendment to six months after the end of the war. A contrary construction would probably result in a gift of public funds in violation of Const. art. iv, § 31. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The provision requiring the reduction of pensions when retired persons engage in gainful occupations is not subject to the objection that it is discriminatory and violates Const. art. i, § 11, by reason of the fact that by its terms it is inapplicable to persons over 62, those who retired on account of disability, or those under 62 whose income is not derived from gainful employment. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

Under § 163b, providing that when a retired person engaged in gainful employment the pension provided by contributions of the

City and County shall be reduced to an "amount which . . . shall not exceed the compensation on the basis of which his pension or retirement allowance was determined," the judgment in a declaratory relief action is too limited if it fixes as a maximum the compensation the party received on his retirement, and should provide for a computation on the basis of his rank. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

Contributions to Retirement Fund

SECTION 164. The city and county shall contribute jointly with the members of the retirement system to meet the liabilities accruing under the system because of service rendered to the city and county by persons after becoming members of the system. Members of the system shall contribute not to exceed ten per cent of their salaries or wages, provided that members may, at their option, elect to contribute at rates in addition to those fixed as normal by the retirement board. The city and county shall contribute an amount equal to normal contributions of members as provided for in the preceding sentence, but the city and county shall not contribute any amount because of additional contributions by members.

Miscellaneous Officers and Employees

SECTION 165. Officers and employees of the city and county, except members of the police and the fire departments, shall become members of the retirement system subject only to the following provisions, in addition to the provisions contained in sections 158 to 164, of this charter, both inclusive.

(a) The system shall be applied to such offices, departments, bureaus, or classes of officers or employees of the city and county, including teachers in the San Francisco school department, as the supervisors shall determine; provided, however, that the contributions to be made by said teachers and the benefits to be received by said teachers under said retirement system shall be based upon the proportion of salaries of said teachers which have been and shall be paid out of funds contributed by the city and county, excluding therefrom the portion of such salaries which have been or shall be paid out of funds contributed by the State of California; and in determining such proportion it shall be taken to be the same proportion which the whole amount of money contributed by the city and county to the common school fund in any fiscal year bears to the whole amount of money contributed to such fund in such year by the state and by the city and county; and provided, further, that nothing herein contained shall be construed to deprive any teacher of the right to receive benefits under any pension or retirement system now or hereafter established by the State of California.

(b) No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years and completed ten years of continuous service, but retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

(c) All persons who were retired prior to October 1, 1925, from service as teachers in the public schools of San Francisco, under the provisions of the law of 1913, establishing the California Public School Teachers' Retirement Salary Fund, shall be entitled to and shall receive retirement allowances, to be calculated on the same basis as that established for determining the retirement allowances provided for members of the said retirement system.

Sunder v. Collins, see § 163.

In the Emergency Proclamation of Aug. 21, 1944, waiving Charter limitations as to age with respect to employees of the Market Street Railway Company, paragraph four, providing for discharge of persons "who suffer disqualification of age" on the finding of qualified employees, applies as well to those disqualified at the time of their entrance into civil service and those who became disqualified later. **Palmer v. Wolff** (1948) 88 Cal. App. (2d) 979, 200 Pac. (2d) 167.

A writ of mandate to compel restoration of civil employees discharged because of overage is properly denied where an emergency waiver of age limitations is rescinded before trial and any right to restoration is thus but an abstract right. **Palmer v. Wolff** (1948) 88 Cal. App. (2d) 979, 200 Pac. (2d) 167, assuming for the purpose of the decision that the Emergency Proclamation of Aug. 21, 1944, suspended the compulsory retirement provision of § 165.

Pacific Gas & Electric Company Employees

SECTION 165.1. The board of supervisors shall have the power to provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said city and county and the Pacific Gas & Electric Company, and because of their employment by said company at the effective date of said lease, or other temporary arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said city and county upon purchase or other permanent acquisition of the properties of said company, essentially the same benefits on account of service rendered as employees of said city and county, as they would have received if they had been members throughout said service of the San Francisco City and County Employees' Retirement System on the same basis as other employees of said city and county, except members of fire or police departments. [*New section, 1941*]

Retirement—Miscellaneous Officers and Employees Prior to July 1, 1947

SECTION 165.1.1. Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on the effective date of this section, hereby designated as the first day of the month next following its ratification by the Legislature, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under section 165, is hereby increased by the amount of twenty-five dollars per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to twenty-five dollars that the service with which the member was entitled to be credited at effective date of retirement, bears to twenty years. This section does not give any member retired prior to the effective date hereof, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to said effective date. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on said effective date, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on said effective date, or if the retired member is not living on said effective date and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon said effective date, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under section 165.2, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases. [*New section, 1949*]

SECTION 165.1.2. *No section for this number.*

Retirement Continued—Increasing Retirement Allowances of Miscellaneous Officers and Employees Retired Prior to July 1, 1947

SECTION 165.1.3. Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on the effective date of this section, hereby designated as the first day of the month next following its ratification by the Legislature, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under section 165, is hereby increased by the amount of $25 per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to $25 that the service with which the member was entitled to be credited at effective date of retirement, bears to twenty years. This section does not give any member retired prior to the effective date hereof, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to said effective date. If a member elected at retirement to have his retirement allowanc modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on said effective date, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on said effective date, or if the retired member is not living on said effective date and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon said effective date, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under section 165.2, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases. [*New section, 1953*]

Retirement—Miscellaneous Officers and Employees On and After July 1, 1957

SECTION 165.2. Miscellaneous officers and employees, as defined in this section, who are members of the retirement system under section 165 of the charter on the effective date hereof, hereby designated as the first day of July, 1947, and persons who become miscellaneous officers and employees after said effective date, shall be members of the retirement system on and after said date, subject to the following provisions of this section, in addition to the provisions contained in sections 158 to 161, both inclusive, of this charter notwithstanding the provisions of any other section of the charter, provided that the retirement system shall be applied to persons employed on a part-time, temporary or substitute basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the retirement system under section 165 of the charter on said effective date, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof, of being members of the system under section 165 instead of this section, the election under said option to be effective on said effective date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 161 of the charter, on the effective date of the amendment, shall have the same option of electing to be members under section 165 instead of this section, until ninety days after their return to service. On and after said date, the persons who affirmatively exercise said option, shall continue to be members of the system under section 165 and shall not be subject to any of the provisions of this section.

(A) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

''Retirement allowance,'' or ''allowance,'' shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

''Compensation,'' as distinguished from benefits under the workmen's compensation laws of the State of California, shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, excluding that part of such remuneration which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

''Compensation earnable'' shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city service he was in the position first held by him in city-service.

''Benefit'' shall include ''allowance,'' ''retirement allowance,'' and ''death benefit.''

''Average final compensation'' shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the retirement system in which his average final compensation is the highest, excluding that part of such remuneration which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the retirement system and of this section, the terms ''miscellaneous officer or employee,'' or ''member,'' as used in this section shall mean any officer or employee who is not a member of the fire or police departments as defined in the charter for the purpose of the retirement system, under section 165 of the charter.

''Retirement system'' or ''system'' shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

''Retirement board'' shall mean ''retirement board'' as created in section 159 of the charter.

''Charter'' shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

''Interest'' shall mean interest at the rate adopted by the retirement board.

(B) Any member who completes at least twenty years of service in the aggregate credited in the Retirement system and attains the age of fifty-five years, or at least ten years of service in the aggregate credited in the retirement system, and attains the age of sixty years, said service to be computed under subsection (G) hereof, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of seventy years during the twelve months ending June 30, 1948; the age of sixty-nine years during the twelve months ending June 30, 1949; the age of sixty-eight years during the twelve months ending June 30, 1950; the age of sixty-seven years during the twelve months ending June 30, 1951; the age of sixty-six years during the twelve months ending June 30, 1952; and thereafter, following the attainment of the age of sixty-five years. A member retired after reaching the age of sixty years shall receive a service retirement allowance at the rate of 1⅔ per cent of said average final compensation, for each year of service. The service retirement allowance of any member retiring prior to attaining the age of sixty years, after rendering twenty years or more of such service and having attained the age of fifty-five years, computed under subsection (G), shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled upon retirement at age sixty and with the service credited at the date of actual retirement. Before the first payment of a retirement allowance is made, a member retired under this subsection or subsection (C) of this section, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits. The portion of service retirement allowance provided by the city and county's contributions shall be not less than $50 per month upon retirement after thirty years of service and after attaining the age of sixty years, and provided further that as to any member with fifteen years or more of service at the compulsory retirement age of sixty-five, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than $50.00 per month. In the calculations under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied on full time service and compensation in the calculation of retirement allowances.

(C) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be extended and uncertain duration, and who shall have completed at least ten years of service credited in the retirement system in the aggregate, computed as provided in subsection (G) hereof, shall be retired upon an allowance of one and one-half per cent of the average final compensation of said member, as defined in subsection (A) hereof for each year of credited service, if such retirement allowance exceeds one-third (⅓) of his average final compensation; otherwise one and one-half (1½) per cent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of age sixty, but such retirement allowance shall not exceed one-third (1/3) of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the five (5) years immediately preceding his retirement. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied as full time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

(D) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workmen's compensation laws of the State of California.

(E) If a member shall die, before his retirement, regardless of cause, a death benefit shall be paid to his estate or designated beneficiary consisting of the compensation earnable by him during the six months immediately preceding death, plus his contributions and interest credited thereon. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members.

(F) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and re-employment with and without re-deposits of withdrawn accumulated contributions of other members of the retirement system, provided that if such member is entitled to be credited with at least ten years of service, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. Upon the qualification of such member for retirement by reason of service and age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1⅔ per cent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid his estate or designated beneficiary.

(G) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service of a member under this section shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under this section, provided that the accumulated contribution standing to the credit of such member

shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his service in either of such departments at the compensation he received in such departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of section 161 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under section 165.

(H) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The rate of contribution of each member under this section shall be based on his nearest age at the effective date of his membership in the retirement system. The normal rate of contribution of each such member, to be effective from the effective date of membership under this section, shall be such as, on the average for such member, will provide, assuming service without interruption, under subsection (B) of this section, one-half of that portion of the service retirement allowance to which he would be entitled if retired at age sixty or higher age after rendering ten years of service for retirement under that subsection. No adjustment shall be included in said rates because of time during which members have contributed at different rates. Members' rates of contributions shall be changed only in the manner prescribed by the board of supervisors for changing contribution rates of other members.

(2) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rate of contribution to such compensation. Amounts which would have been deducted in the absence of the limit on such deductions according to service credited,

shall be paid to the retirement system following the removal of such limit, in manners and at times approved by the retirement board. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in subsections (E) and (F) of this section, provided that the portion of the salaries of the teachers as provided in section 165, paragraph (a), as a basis for fixing the contributions to be made, and the benefits to be received, by the teachers under the retirement system shall be determined by the method provided in section 165, paragraph (a) and shall not be less than eighty per cent of the total salary received by the teachers, excluding that part of such portion which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

(3) Contributions based on time included in paragraphs (1) and (3) of subsection (G), and deducted prior to the effective date hereof, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(4) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, on the effective date hereof, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(5) The city and county shall contribute to the retirement

system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this subsection (H), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his rate of contribution is determined in paragraph (1), subsection (H), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this section, said percentage to be the ratio of the value of the effective date hereof. or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter to be paid under this section. from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding. to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members. and the probabilities of separation by all causes. of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(6) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city

and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

(I) Upon the completion of the years of service set forth in subsection (B) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said subsection (B), and nothing shall deprive said member of said right.

(J) No person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Should any such retired person engage in gainful occupation prior to attaining the age of sixty years, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed his compensation at the time of his retirement.

(K) Any section or part of any section in this charter, insofar as it should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1947; amended, 1948*]

Where a city employee contributed to a City Retirement Fund and Death Benefit Fund before widowhood and remarriage, and continued such contributions from community property thereafter until his death, the proceeds will be apportioned between the second wife and the designated beneficiary in the same proportion as the contributions after the second marriage bear to the contributions previously paid. **Gettman v. Los Angeles Department of Water and Power** (1948) 87 Cal. App. (2d) 862, 197 Pac. (2d) 817.

PENSIONS AND RETIREMENT
(Continued)

Present Police Department Members

SECTION 166. Persons who are members of the police department on the 8th day of January, 1932, shall become members of the retirement system on that date, subject to the following provisions in addition to the provisions contained in sections 158 to 163, both inclusive, of this charter:

(a) Any member of the department who has arrived or shall arrive at the age of sixty-two years, and who has completed thirty years of continuous service as an active member of the department next preceding his retirement, may retire from service at his option, provided that retirement shall be compulsory at the age of seventy years. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half of the amount of the monthly salary attached to the rank held by him three years prior to the date of his retirement, hereinafter referred to in this section and section 167 as a "pension.'

Before the first payment of the pension is made, such retired member may elect to receive the actuarial equivalent of his pension, partly in a pension to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits.

(b) Any member of the department who shall become physically disabled by reason of any bodily injury received in the performance of his duty, may be retired upon a monthly pension, as defined in subdivision (a), of this section, payable throughout his life. In case his disability shall cease, his pension shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

(c) The family of any member of the department who may be killed or injured while in the performance of his duties, and who shall have died within three (3) years from the date of such injury as a result of such injury, shall receive the following benefits and the receipt by such member of a pension under this section during his lifetime shall not bar said family from such benefits:

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, such widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided, however, that should said widow die, leaving a child or children under the age of sixteen years, said pension shall continue to such child or such children collectively until the youngest child arrives at the age of sixteen years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of sixteen years, such child or children collectively shall receive a monthly pension equal to one-half of the salary attached to the rank held by their father at the time of his said injury until the youngest attains the age of sixteen years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents depending solely upon him for support, such parents, so depending, shall collectively receive a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury during such time as the retirement board may unanimously determine its necessity.

(d) A sum equal to the contributions, with interest, made by persons who become members of the retirement system under this section to any other pension fund shall be paid by the city and county to the retirement system. Each member of the department shall contribute two dollars ($2) per month to the retirement system to be applied on the cost of the benefits at death and retirement provided under this section. Should a member be separated from city service through any cause other than death or retirement, then such contributions with interest shall be refunded to him under such conditions as may be fixed by the board of supervisors for the refund of contributions of other members of the retirement system.

(e) When any member of the department shall die from natural causes and before retirement, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

(f) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which, together with the members' contributions provided for in subdivision (d) of this section, shall be equal to the liabilities accruing under the retirement system because of the service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county, together with the members' contributions, was not sufficient to meet such liability, then the city and county shall make such additional contributions as may be necessary to make up the deficit.

(g) No benefits shall be provided under the retirement system for, nor shall any contribution be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section.

That portion of any pension payable because of the death or retirement of any of such persons which is provided by contributions of the city and county shall be reduced, in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the workmen's compensation insurance and safety law of the State of California.

(h) Persons who were members of the police department on the 8th day of January, 1932, shall have the option, to be exercised in writing on or before the 1st day of January, 1936, of becoming members of the retirement system under the provisions of section 168, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then on and after the first day of the month next following such affirmative action, referred to hereinafter in this subdivision (h) as "effective date," they shall not receive any benefit or make any contribution under this section, but on and after said effective date shall be members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to said effective date, by such members' contributions made prior to such effective date, with interest, and by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age sixty-two for each year of service rendered as a member of the retirement system. [*Amended, 1935*]

Where an officer dies as a result of a pre-existing disease of the heart and it is established that the disease has been aggravated and death accelerated or precipitated by exertion in performing the duties of his office, the case falls within the scope of this provision, and his widow is entitled to the benefits which it grants. **Naughton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 714.

Mandamus is available where it is alleged and shown that the local board has acted arbitrarily and clearly in abuse of its discretion. **Naughton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 714.

A petition by a widow of a police officer for a writ of mandate to compel the granting of a pension to her under the Charter must set forth facts showing that a pension ought to have been allowed, and that the respondents' refusal to do so was an abuse of their discretion. **Hogan v. Retirement Board** (1936) 13 Cal. App. (2d) 676, 57 Pac. (2d) 520; **Bennett v. Brady (1936)** 17 Cal. App. (2d) 114, 61 Pac. (2d) 530 (decided under old Charter).

A petition by the widow of a police officer seeking a widow's pension is subject to general demurrer where it merely alleges that the petitioner's evidence, not all the evidence, produced at the hearings established and proved the allegations of her application. **Bennett v. Brady** (1936) 117 Cal. App. (2d) 114, 61 Pac. (2d) 530.

A police sergeant's right to a future pension forms part of his compensation of employment and his loss of such future pension because of injuries in an automobile accident terminating his employment four years before his right to a pension accrues is a proper element of damages in an action for such injuries. **Groat v. Walkup Drayage & Warehouse Co.** (1936) 14 Cal App. (2d) 350, 58 Pac. (2d) 200.

Salary Base, for Retirement Purposes, of Former Rank of Coporal of Police

SECTION 166.1. For all purposes of the retirement system, and notwithstanding any other provisions of the charter, the monthly salary attached to the former rank of corporal, heretofore held by a member of the police department, shall henceforth be deemed to be an amount equal to the maximum monthly salary attached to the rank of police officer, plus three-fourths of the difference between such amount and the monthly salary attached to the rank of sergeant. [*New section, 1948*]

Present Retired Members and Present Beneficiaries, Police Department

SECTION 167. Any member of the police department who shall have been retired and shall be receiving a pension on the 8th day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension, subject to the provisions of section 166 governing the payment of pensions. Such pension shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children, or parents.

Sunder v. Collins, see § 163.

Future Members of Police Department

SECTION 168. Persons who become members of the police department after the 8th day of January, 1932, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 158 to 164, both inclusive, of this charter: No such member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years, and completed twenty-five years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service, the benefits of retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

Retirement Provisions—Police Department

SECTION 168.1. Members of the police department, as defined in section 168.1.1 who are members of the retirement system under sections 165, 166 or 168 of the charter on the first day of July, 1945 and persons who become members of said department after said date, shall be members of the retirement system under this section 168.1 on and after said date, and shall be subject to the following provisions of section 168.1, and sections 168.1.1, 168.1.2, 168.1.3, 168.1.4, 168.1.5, 168.1.6, 168.1.7, 168.1.8, 168.1.9, 168.1.10, 168.1.11, 168.1.12, 168.1.13 and 168.1.14 (which shall apply only to members under section 168.1 unless otherwise indicated) in addition to the provisions contained in sections 158 to 161, both inclusive, of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under section 166 of the charter on July 1, 1949, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after July 1, 1949, of being members of the system under section 166 instead of section 168.1, the election under said option to be effective on said date. In like manner, members of the said department who are members of the retirement system under sections 165 or 168 of the charter shall have the option, to be exercised in writing on a form furnished by the retirement system, and to be filed at the office of said system not later than ninety days after July 1, 1949, of being members of the system under sections 165 or 168, respectively, instead of section 168.1, the election to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 161 of the charter, on the effective date of the amendment shall have the same option of electing to be members under sections 165, 166, or 168, as the case may be, instead of section 168.1, until ninety days after their return to service in the police department. On and after July 1, 1949 the persons who affirmatively exercise said option, shall continue to be members of the system under sections 165, 166, or 168, respectively, and shall not be subject to any of the provisions of section 168.1. [*New section, 1945; amended, 1949*]

Section 168.1.1. The following words and phrases as used in this section, unless a different meaning is plainly required by the context shall have the following meanings:

"Retirement allowance", "death allowance", or "allowance" shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation", as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance", "retirement allowance", "death allowance" and "death benefit".

"Final compensation" shall mean the average monthly compensation earnable by a member during the three years immediately preceding his retirement, or death before retirement.

For the purpose of the retirement system and of this section, the terms "member of the police department", "member of the department" or "member" shall mean any officer or employee of the police department whose employment therein began prior to January 1, 1900, or whose employment therein began or shall begin after that date, and was or shall be subject to the charter provisions governing entrance requirements for members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on the effective date hereof regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron. Any police service performed by such a member of the police department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

''Retirement system'' or ''system'' shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

''Retirement board'' shall mean ''retirement board'' as created in section 159 of the charter.

''Charter'' shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural, and the plural the singular.

''Interest'' shall mean interest at the rate adopted by the retirement board. [*New section, 1949*]

Section 168.1.2. Any member of the police department who completes at least thirty years of service in the aggregate, regardless of age, or at least twenty-five years of service in the aggregate, and attains the age of fifty-five (55) years, said service to be computed under section 168.1.9, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-seven years during the twelve months ending June 30, 1949; the age of sixty-six years during the twelve months ending June 30, 1950, and thereafter, following the attainment of the age of sixty-five years. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in Section 168.1.1, plus an allowance at the rate of one and two-thirds (1⅔) per cent of said final compensation, for each year of service rendered prior to attaining age 60 and after qualifying as to age and service for retirement. A member retired after attaining the age of 65 years, but before completing twenty-five years of service in the aggregate computed under section 168.1.9, shall receive a retirement allowance which bears the same ratio to fifty per cent of the final compensation of said member, as defined in section 168.1.1 as the service with which he is entitled to be credited, bears to twenty-five years. Any member may retire, regardless of age, after rendering twenty-five years of service in the aggregate, computed under section 168.1.9, but in such event, his retirement allowance shall be such as can be provided at the age of retirement, by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled at the date upon which he would qualify for retirement under the first sentence of this paragraph, deferred to that date. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 168.1.3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. [*New section, 1949; amended, 1952*]

SECTION 168.1.3. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of bodily injury received in, or illness caused by performance of his duty, shall be retired, and if he is not qualified for service retirement, shall receive a retirement allowance, equal to seventy-five per cent of the final compensation of said member, as defined in section 168.1.1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 168.1.2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 168.1.2, but not less than fifty per cent of said final compensation. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 168.1.9, shall be retired upon an allowance of one and one-half per cent of the final compensation of said member, as defined in section 168.1.1, for each year of service, provided that said allowance shall not be less than thirty-three and one-third per cent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement. [*New section, 1949*]

SECTION 168.1.4. If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife, throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowane which the member would have received if he had been retired for service on the day of death, but such allowance shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death. If death occurs prior to qualification for service retirement the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If he had retired prior to death for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under section 168.1 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death. [*New section, 1949*]

In a proceeding in mandamus to compel the payment of a pension to a police officer's widow, the burden is on the petitioner to show a causal relation between the duty performed by the officer and the immediate cause of his death. **Morgan v. City of Los Angeles** (1949) 91 Cal. App. (2d) 134, 204 Pac. (2d) 375.

The burden of showing a causal connection between the death of a person and the work performed by him rests with the person seeking a pension. **Marshall v. City of Oakland** (1949) 92 Cal. App. (2d) 593, 207 Pac. (2d) 882.

Where an officer or patrolman of a police department governed by a pension law dies as a result of a pre-existing disease of the heart and it is established that the disease has been aggravated and death accelerated or precipitated by exertion in performing the duties of his office, his widow is entitled to pension benefits unless a contrary provision appears in the governing pension law. **Marshall v. City of Oakland** (1949) 92 Cal. App. (2d) 593, 207 Pac. (2d) 882.

SECTION 168.1.5. Upon the death of a member after qualification for service retirement under sections 166, 168 or 168.1.2, or after retirement for service or because of disability which resulted from injury received in, or illness caused by the performance of duty, and if death shall result from other cause than such injury or illness, one-half of his retirement allowance to which he would have been entitled if he had retired for service at the time of his death or one-half his retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife, except that if he was a member under section 168.1 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death, prior to retirement, or unless she was married to the member at least one year prior to his retirement. The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 168.1.7 in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the child or children under age of eighteen, may make such election, and if there be no such children, the dependent parent or parents may make such election. Persons heretofore or hereafter retired under other charter sections, as members of the police department at the time of retirement, shall be subject to the provisions of this section. With respect to members under section 168.1, "Qualified for service retirement", "Qualification for service retirement" or "Qualified as to age and service for retirement", as used in this section and other sections to which persons who are members under section 168.1 are subject, shall mean completion of thirty years of service regardless of age, or twenty-five years of service and attainment of age fifty-five, said service to be computed under section 168.1.9. [*New section, 1949; amended, 1952*]

SECTION 168.1.5.1. Every allowance based on the average monthly compensation earnable by the member during the three or ten years prior to retirement or death, and payable for time commencing on the effective date of this section, to or on account of persons who were retired or who died prior to January 1, 1951, as members of the police department, shall be adjusted to the amount it would be if it had been based on the monthly compensation fixed in section 35.5 of the charter as of July 1, 1951, for the rank of police officer in the respective years of service, regardless of the rank or position the member held in the department prior to his retirement, or death before retirement. Every service retirement allowance under section 168, which is included in the sentence next preceding, shall be adjusted to what it would have been, if prior to optional modification, the allowance had been fifty per cent of said monthly compensation. Allowances payable under sections 168.1.3, 168.1.4, or 168.3 to or on account of persons who were retired for disability or died prior to January 1, 1951, on and after the date such persons would have qualified for service retirement, shall be calculated as provided in said sections 168.1.3, 168.1.4, or 168.3, respectively. The provisions of section 168.1.5 with respect to continuance of one-half of retirement allowance upon deaths after retirement, shall be applied from the effective date of this section as if they were effective on November 2, 1948. This section does not authorize any decrease in any allowance from the amount being paid at said effective date, nor does this section give any retired member, or any beneficiary of such member, or his successors in interest, any claim against the city and county for any increase in any allowance paid or payable for the time prior to its effective date. Adjustment in reserves under allowances which are changed according to this section, shall be made on the basis of current interest rate and mortality tables.

The increase in the retirement allowance shall be apportioned according to service rendered by the member in the same manner that the allowance prior to increase was apportioned. Contributions to the retirement system, necessary for the payment of the increase of the portion of the retirement allowances which is paid from reserves held by the retirement system, shall be provided from the reserves held by the retirement system on account of members under section 168.1, the necessary amount being transferred upon said effective date, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently, as a percentage of salaries of persons who are members under section 168.1, shall be increased to a percentage determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to current and prior service portions of the allowances which are not paid from reserves held by the retirement system, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases. [*New section, 1952*]

SECTION 168.1.6. That portion of any allowance payable because of the death or retirement of any member of said department, which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits, other than medical benefits, payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of any benefits, other than medical benefits, payable to or on account of such persons under the said law of the State of California, and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits. [*New section, 1949*]

SECTION 168.1.7. If a member of the police department shall die, before retirement, from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 168.1.4 or 168.1.5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, the sum of five hundred dollars shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members. [*New section, 1949; amended, 1952*]

SECTION 168.1.8. Should any member of the department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund the amount refunded to him. Contributions with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 168.1.9, to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be. to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the police department, and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues. [*New section, 1949*]

SECTION 168.1.9. The following time shall be included in the computation of the service to be credited to the member for the purposes of determining whether such member qualifies for retirement, and calculating benefits, excluding, however, any time the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(2) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

(3) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments before July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under section 168.1.3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after June 30, 1949, and receives compensation because of services rendered in other offices and departments.

(4) Time during which said member is absent from a status included in paragraphs (1), (2) or (3) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 161 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account. [*New section, 1949*]

SECTION 168.1.10. All payments provided for persons who are members under section 168.1 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution of each member shall be based on his age taken to the next lower complete quarter year, (a) at the date he became a member under sections 165 or 168, in the case of persons who are members under these sections, or (b) at July 1, 1945, in the case of persons who are members under section 166, and his age taken to the next lower completed quarter year, when he entered the police department, or (c) on his age at the date he becomes a member under section 168.1, in the case of persons who become members on or after July 1, 1945, without credit for services counted under section 168.1.9. The age of entrance into the police department shall be determined by deducting the member's service credited under section 168.1.9 as

rendered prior to the date upon which his age is based for determination of the rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 168.1, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 168.1.2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, without discount of allowance, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed ten per cent.

(2) The dependent rate of contribution of each member which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under section 168.1.2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 168.1.5, after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement from disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between ten per cent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under section 168.1, a sum determined by

applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in sections 168.1.7, 168.1.8, and 168.1.9.

(4) Contributions based on time included in paragraphs (1), (2), (3) and (4) of section 168.1.9, and deducted prior to July 1, 1945, from compensation of persons who become members under section 168.1, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(6) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 168.1.10, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1), section 168.1.10, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence,

shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 168.1, said percentage to be the ratio of the value on July 1, 1945, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligation of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county. [*New section, 1949*]

Section 168.1.11. Upon the completion of the years of service set forth in section 168.1.2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said section 168.1.2, and nothing shall deprive said member of said right. [*New section, 1949*]

SECTION 168.1.12. No person retired as a member under section 168.1 after June 30, 1945, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Notwithstanding any provision in this charter to the contrary, should any such retired person, except persons retired prior to July 1, 1949, because of disability which resulted from injury received in, or illness caused by the performance of duty, engage in a gainful occupation prior to attaining the age of sixty, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the amount of the compensation earnable at the time he engages in the gainful occupation, by the member if he then held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired, immediately prior to its abolition.

The effective date of this amendment shall be the first day of the month following ratification by the State Legislature. [*New section, 1949; amended, 1949*]

SECTION 168.1.13. Any section or part of any section in this charter, insofar as it should conflict with these sections 168.1, 168.1.1, 168.1.2, 168.1.3, 168.1.4, 168.1.5, 168.1.6, 168.1.7, 168.1.8, 168.1.9, 168.1.10, 168.1.11, 168.1.12, 168.1.13 or 168.1.14, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1949*]

SECTION 168.1.14. The amendment of section 168.1, and sections 168.1.1, 168.1.2, 168.1.3, 168.1.4, 168.1.5, 168.1.6, 168.1.7, 168.1.8, 168.1.9, 168.1.10, 168.1.11, 168.1.12, 168.1.13, and 168.1.14, contained in the proposition therefor submitted to the electorate on November 2, 1948, shall take effect on the first day of July, 1949. [*New section, 1949*]

Physical Disability.—Under a charter provision (Long Beach Charter, § 187(3)) for a retirement pension when a member of the police or fire department shall become physically disabled or by reason of bodily injuries received in, or by reason of sickness caused by the discharge of duties or shall become so physically or mentally disabled as the result of injury or sickness as to render necessary his retirement from active service, it is not necessary that the member to become eligible for retirement be or become permanently disabled, nor that the injuries received be of such character at the time they were received as to render necessary retirement. **Tyra v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

Effect of Resignation.—When the right of a police officer to a pension becomes vested by the happening of the contingency on which the pension becomes payable, his right is not defeated by his resignation. Nor is his right affected by the fact that his certificate of disability and medical reports are filed after such resignation where as to such certificate and reports the charter merely requires that they be filed prior to the granting of a pension. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) 714, 196 Pac. (2d) 94, construing Long Beach Charter.

Under a charter providing for a pension "whenever any member [of the police department] shall become physically disabled" (Long Beach Charter, § 187(3)), the pension right becomes vested at least on the happening of the contingency on which the pension becomes payable, and is not forfeited by resignation before filing of the required certificates. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) 714, 196 Pac. (2d) 94, under the Long Beach Charter.

A police officer's designation of his daughter "as executrix of my will" as beneficiary of his death benefit certificate in the Widows' and Orphans' Aid Association is sufficient evidence to support a court's finding that the daughter takes in her character as executrix, with the result that she must list the benefit as an asset of the estate. **Reade Estate** (1948) 31 Cal. (2d) 669, 191 Pac. (2d) 745.

Workmen's Compensation.—The pension provision of a city charter (Long Beach Charter, § 188) to the effect that it is intended to be in lieu of and take the place of the Workmen's Compensation Act, and that a person applying for a pension waives all provisions of such act, does not apply to the converse situation, and one applying for workmen's compensation does not on that account waive his right to a pension. **Larson v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 60, 162 Pac. (2d) 33.

Where under a charter the acceptance of workmen's compensation does not constitute a waiver of pension rights, the acceptance of such compensation does not effect a pro tanto reduction of pension benefits. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) 714, 196 Pac. (2d) 94, under the Long Beach Charter.

Under a charter providing that the provision for police pension is intended to be in lieu of the Workmen's Compensation Act, but not providing that the Workmen's Compensation Act is to be in lieu of and in place of pension provisions, one's acceptance of workman's compensation does not constitute a waiver of his pension rights and does not work a reduction pro tanto of his pension benefits. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) 714, 196 Pac. (2d) 94, construing Long Beach Charter.

Mandamus.—On refusal of a pension board to acknowledge a widow's right to a pension, she may bring an action of mandamus to review the board's decision and to establish her status as a pensioner as a matter of law. **Dillon v. Board of Pension Commissioners of Los Angeles** (1941) 18 Cal. (2d) 427, 116 Pac. (2d) 37, 136 A.L.R. 800.

Statute of Limitations.—Under a charter provision requiring a civil service commission to order payment of a pension whenever a member of a department should become so physically or mentally disabled as the result of injury as to render his retirement necessary (Long Beach Charter, § 187(3), the duty of the commission does not attach and the right to a pension does not accrue, until it determines the result of the injury, the condition of the employee and the necessity for retirement; and in the absence of a provision limiting the time with relation to any event within which the employee must file his request, the statute of limitations does not commence to run until the commission makes such determination or arbitrarily refuses to act. **Tyra v. Board of Police and Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710.

The fact that a city as a self-insurer under the Workmen's Compensation Act vountarily paid an employee compensation thereunder does not establish that his injuries were such as to render necessary his retirement, within the meaning of a charter pension provision, so as to start the statute of limitations running. **Tyra v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

Where under a charter the right to a retirement pension does not accrue until a determination by the commission of the effects of an injury, the limitation period is not commenced by the mere filing of the required certificates which are merely the necessary evidentiary justification for action by the commission. **Tyra v. Board of Police and Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710, under Long Beach Charter.

A finding of the Industrial Accident Commission, made more than five years after the happening of an accident, that the injuries suffered by the employee "eventually resulted in a permanent disability of 100%" does not establish when his injuries became such as to render necessary his retirement. **Tyra v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

The cause of action to establish the right of a policeman's widow to a pension accrues to her at the time of the death of her husband, and the statute of limitations is a bar to an action of mandamus brought for such purpose after the denial of her claim if it is not instituted within three years after the death of her husband, exclusive of the period of the pension board's deliberations. (Code Civ. Proc. § § 312, 338.) **Dillon v. Board of Pension Commissioners of Los Angeles** (1941) 18 Cal. (2d) 427, 116 Pac. (2d) 37, 136 A. L. R. 800.

Estoppel to Assert Statute of Limitations.—A city pension board is estopped from interposing the statute of limitations as a bar to a proceeding to order retirement of an employee on a pension when the employee's delay in proceeding was induced by the erroneous position of the commission, amounting to a departmental ruling, that he was not entitled to a pension so long as he received workmen's compensation. **Tyra v. Board of Police and Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710, under the Long Beach Charter.

SECTION 168.1.15. *No section for this number.*

SECTION 168.1.16. Added new section 168.1.5.1, and amended sections 168.1.2, 168.1.5 and 168.1.7, contained in the propositions therefor submitted to the electorate on November 6, 1951, shall take effect on the first day of the month next following their ratification by the State Legislature. [*New section, 1952*]

SECTION 168.1.17. Any section or part of any section in this charter, insofar as it should conflict with new section 168.1.5.1, or amended sections 168.1.2, 168.1.5, and 168.1.7, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause, or section of these sections, shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1952*]

SECTION 168.2. *No section for this number.*

Pension Provisions—Dependents of Members of Fire and Police Departments Killed in Line of Duty

SECTION 168.3. If a member of the fire or police departments, as defined in the charter for the purposes of the retirement system, or a member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fireboats, marine engineer of fireboats, or marine fireman of fireboats, all of whom are hereinafter designated as members, shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a monthly allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death, and if he had retired prior to death, the allowance payable shall be equal to the retirement allowance of the member. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

Benefits provided under this section shall be in lieu of all benefits payable under other sections of the charter upon death of such member resulting from an injury received in, or illness caused by the performance of duty, except the five hundred dollar benefit payable upon death after retirement.

Contributions to provide the allowance under this section shall be made to the San Francisco City and County Employees' Retirement System by the city and county. The amount of the contribution shall be determined and payment to the system shall be made in the same manner as contributions are determined and paid which are required for other benefits provided under the retirement system for the respective groups of members who are included under this section.

Notwithstanding any other provisions of this charter, any member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fire boats, marine engineer of fire boats, or marine firemen of fire boats, who becomes incapacitated for performance of his duty by reason of any bodily injury received in or illness caused by the performance of his duty, shall receive the same benefits as members of the fire department who are members of the retirement system under section 171 of the charter. [*New section, 1947*]

PENSIONS AND RETIREMENT
(Continued)

Present Members of Fire Department

SECTION 169. Persons who are members of the fire department on the 8th day of January, 1932, shall become members of the retirement system on that date, subject only to the following provisions, in addition to the provisions contained in sections 158 to 163, both inclusive, of this charter:

(a) Any member of the fire department who shall have completed twenty-five years of continuous service as a member of the fire department next preceding the date of his retirement, or any member of the fire department who shall have reached the age of fifty-five years and shall have completed twenty years of continuous service as a member of the fire department next preceding the date of his retirement, may retire from service at his option. Any member of the fire department who shall become physically disabled by reason of any bodily injury received in the performance of his duty may be retired from service on satisfactory proof thereof. The retirement board, by unanimous vote, may retire from service any aged, disabled or infirm member of the fire department who has arrived at the age of sixty years and who has completed twenty years of continuous service as a member of the department next preceding such age, who may be ascertained to be, by reason of such age, infirmity or other disability, unfit for the performance of his duties. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half the amount of the salary attached to the rank held by him three years prior to the date of his retirement hereinafter referred to as ''pension'' in this and the following sections; provided that where such retirement is based on disability alone, in case the disability of such member shall cease, his pension shall cease, and he shall be restored to service in the rank he occupied at the time of his retirement. Should any said retired member die leaving a widow, who shall have been married to the decedent at least one year prior to the date of his retirement, such widow shall, as long as she may live and remain unmarried, be paid said pension; provided further, that should said widow die leaving a child or children under the age of sixteen years, said pension shall continue to be paid such child or such children collectively until the youngest child arrives at the age of sixteen years; and provided, further, that should said retired member die leaving no widow but leaving an orphan child or children under the age of sixteen years, such child or children collectively shall receive said pension until the youngest child attains the age of sixteen years.

(b) The family of any member of the fire department who shall die as a result of any injury received during the performance of his duty, or from sickness clearly, unmistakably and directly caused by and resulting from the discharge of such duty, or while eligible to a pension on account of years of service in the department, or who has served twenty consecutive years in the department and attained the age of fifty-five years, shall receive the following benefits:

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, his widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury, provided, however, that should said widow die, leaving a child or children under the age of sixteeen years, said pension shall continue to such child or children collectively until the youngest child arrives at the age of sixteen years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of sixteen years, such child or such children collectively shall receive said pension until the youngest child attains the age of sixteen years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents dependent solely upon him for support, such parents so depending shall collectively receive said pension during such time as the retirement board may unanimously determine its necessity.

(c) When any member of the department shall die from natural causes and before retirement, and when no pension is payable to his widow or children, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

(d) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which shall be equal to the liabilities accruing under the retirement system because of service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county was not sufficient to meet such liability, then the city and county shall make such additional contribution as may be necessary to make up the deficit.

(e) No benefits shall be provided under the retirement system for, nor shall any contributions be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section. Any pension payable because of the death or retirement of any of such persons shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the workmen's compensation insurance and safety law of the State of California.

(f) Persons who are members of the fire department on the 8th day of January, 1932, shall have the option, to be exercised in writing on or before the 1st day of July, 1932, of becoming members of the retirement system under the provisions of section 171, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then they shall not receive any benefit under this section, but shall become members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to the 8th day of January, 1932, by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age fifty-five for each year of service rendered as a member of the retirement system.

A firemen's right to a pension, having vested in him at the time of his injuries and retirement, could not subsequently be taken away. **Jordan v. Retirement Board** (1939) 35 Cal. App. (2d) 653, 96 Pac. (2d) 973.

A pensioner has no vested right to a specific sum as a pension, and the sum may be increased or decreased according to correspondent increases or decreases in the salary of the rank upon which the pension is based. **Jordan v. Retirement Board** (1939) 35 Cal. App. (2d) 653, 96 Pac. (2d) 973.

The 1925 and 1929 amendments to the old Charter providing for a widow's pension to firemen (art. ix, ch. vii, §§ 4, 5) had prospective effect only and did not give the wife of a fireman a vested right on the retirement of her husband as the result of injury. **Jordan v. Retirement Board** (1939) 35 Cal. App. (2d) 653, 96 Pac. (2d) 973.

Under the rule that prior to the happening of the contingency upon which the right to a pension vests the law granting such right is subject to alteration or repeal, the widow of a fireman is not entitled to a widow's pension where, though entitled to a pension under the provisions of the former Charter as amended in 1925 and 1929 (ch. vii., art. ix, §§ 4, 5) irrespective of the time of her marriage, her husband did not die until after the adoption of the new Charter and of § 169 thereof providing for a widow's pension only to the widow to whom the fireman was married prior to the date of the injury resulting in his death. **Jordan v. Retirement Board** (1939) 35 Cal. App. (2d) 653, 96 Pac. (2d) 973.

In mandamus to compel the award of a pension to the widow of a deceased fireman, uncontradicted evidence showing death from cerebral hemorrhage from coughing and pneumonia resulting from exposure, eleven months previously, in fighting fire in a cold rain supported findings of the trial court that the findings of the retirement board adverse to the widow were unsupported. **Brant v. Retirement Board** (1943) 57 Cal. App. (2d) 721, 135 Pac. (2d) 396.

Testimony of a medical witness that the fireman's death was due to a nonoccupational disease created a conflict in the evidence, and supported the board's finding which was binding on the court in a mandamus proceeding. **Dornell v. Retirement Board** (1945) 72 Cal. App. (2d) 197, 164 Pac. (2d) 266.

See **Carr v. Fire Commission**, § 158.

Present Retired Members and Present Beneficiaries, Fire Department

SECTION 170. Any member of the fire department who shall have been retired on or after January 21, 1925, or prior to January 1, 1900, and shall be receiving a pension on the 8th day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension subject to the provisions of section 169 governing the payment of pensions to retired members, widows, children and parents. Any member of the fire department who shall have been retired on or after the 1st day of January, 1900, and prior to the 21st day of January, 1925, and shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension throughout his life, subject to the provisions of section

169 governing the payment of pensions granted because of disability incurred in the performance of duty, including the payment of such pension to widows, children and parents of deceased members who had been retired because of such disability. Such pensions shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children, or parents.

The supervisors shall appropriate to the retirement system not to exceed the sum of five thousand dollars ($5,000) a year for the relief of aged, indigent and infirm exempt firemen who served in the Volunteer Fire Department between the years 1850 and 1866.

The pension rights of one who retired as a lieutenant in the fire department after the present Charter went into effect are governed by the provisions of such Charter even though the old Charter was in effect at the time he was employed as captain in the department. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

A pension right of a member of the fire department employed while the old Charter was in effect, which had not accrued, did not so enter into his contract of employment as to become a vested right of which he could not be deprived by subsequent enactment of a different provision in the new Charter. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

Jordan v. Retirement Board, see § 169.

Future Members of Fire Department

Section 171. Persons who become members of the fire department after the 8th day of January, 1932, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 158 to 164, both inclusive, of this charter. No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of fifty-five years and completed twenty years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below fifty-five, in accordance with the tables recommended by the actuary and approved by said retirement board.

SECTION 171.1. Members of fire department, as defined in section 171.1.1, who are members of the retirement system under sections 165, 165.2, or 171 of the charter on the effective date hereof, hereby designated as the first day of July, 1949, and persons who become members of said department after said effective date, shall be members of the retirement system under this section 171.1 on and after said date, and shall be subject to the following provisions of section 171.1 and sections 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13, 171.1.14 (which shall apply only to members under section 171.1 unless otherwise indicated) in addition to the provisions contained in sections 158 to 161, both inclusive, of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under sections 165 or 165.2 of the charter, on July 1, 1950, however, shall have the option to be exercised in writing, on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after said date, of being members of the system under sections 165 or 165.2 instead of section 171.1, the election under said option to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 161 of the charter, on the said effective date of the amendment shall have the same option of electing to be members under sections 165 or 165.2, as the case may be, instead of section 171.1, until ninety days after their return to service in the fire department. On and after said date the persons who affirmatively exercise said option, shall continue to be members of the system under sections 165 or 165.2, respectively, and shall not be subject to any of the provisions of section 171.1. [*New section, 1949; amended, 1949*]

SECTION 171.1.1. The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

''Retirement allowance,'' ''death allowance'' or ''allowance,'' shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during the three years immediately preceding his retirement, or death before retirement.

For the purpose of the retirement system and of this section, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under section 169 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on the effective date hereof, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed by members of the salvage corps in the fire department, or duties now performed under the titles of pilot of fireboats, marine engineer of fireboats, marine fireman, of fireboats, or hydrant-gateman. Any fire service performed by such a member of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

''Retirement system'' or ''system'' shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

''Retirement board'' shall mean ''retirement board'' as created in section 159 of the charter.

''Charter'' shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

''Interest'' shall mean interest at the rate adopted by the retirement board. [*New section, 1949*]

SECTION 171.1.2. Any member of the fire department who completes at least thirty years of service in the aggregate, regardless of age, or at least twenty-five years of service in the aggregate and attains the age of fifty-five years, said service to be computed under section 171.1.9, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-seven years during the twelve months ending June 30, 1949 ; the age of sixty-six years during the twelve months ending June 30, 1950, and thereafter, following the attainment of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in section 171.1.1, plus an allowance at the rate of one and two-thirds per cent of said final compensation, for each year of service rendered prior to attaining age sixty and after qualifying as to age and service for retirement. A member retired after attaining the age of sixty-five years, but before completing twenty-five years of service in the aggregate computed under section 171.1.9, shall receive a retirement allowance which bears the same ratio to fifty per cent of the final compensation of said member, as defined in section 171.1.1, as the service with which he is entitled to be credited, bears to twenty-five years. Any member may retire, regardless of age, after rendering twenty-five years of service in the aggregate, computed under section 171.1.9, but in such event, his retirement allowance shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled at the date upon which he would qualify for retirement under the first sentence of this paragraph, deferred to that date. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 171.1.3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. [*New section, 1949; amended, 1949*]

SECTION 171.1.3. Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired, and, if he is not qualified for service retirement shall receive a retirement allowance equal to seventy-five per cent compensation of said member, as defined in section 171.1.1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 171.1.2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 171.1.2, but not less than fifty per cent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentence, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 171.1.9, shall be retired upon an allowance of one and one-half per cent of the final compensation of said member as defined in section 171.1.1 for each year of service, provided that said allowance shall not be less than thirty-three and one-third per cent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement. [*New section, 1949*]

Section 171.1.4. If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under section 171.1 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death. [*New section, 1949*]

SECTION 171.1.5. Upon the death of a member after qualification for service retirement, under section 171.1.2, or after retirement for service or because of disability which resulted from injury received in, or illness caused by the performance of duty, and if death shall result from other cause than such injury or illness, one-half of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or one-half of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which was incurred in performance of duty and which results in death, or if death does not result from such injury or illness, unless she was married to the member at least one year prior to his retirement.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 171.1.7, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the child or children under age eighteen, may make such election, and if there be no such children, the dependent parent or parents may make such election. Persons heretofore retired under charter section 171, as members of the fire department at the time of retirement, shall be subject to the provisions of this section. ''Qualified for service retirement,'' ''Qualification for service retirement'' or ''Qualified as to age and service for retirement,'' as used in this section and other sections to which persons who are members under section 171.1 are subject, shall mean completion of thirty years of service regardless of age, or twenty-five years of service and attainment of age fifty-five, said service to be computed under section 171.1.9. [*New section, 1949; amended, 1949*]

SECTION 171.1.6. That portion of any allowance payable because of the death or retirement of any member of said department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under said law of the State of California and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits. [*New section, 1949*]

SECTION 171.1.7. If a member of the fire department shall die, before retirement, from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 171.1.4 or 171.1.5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, the sum of five hundred dollars shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members. [*New section, 1949; amended, 1949*]

SECTION 171.1.8. Should any member of the department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 171.1.9, to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the fire department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be, to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the fire department, and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues. [*New section, 1949*]

SECTION 171.1.9. The following time shall be included in the computation of the service to be credited to the member for the purposes of determining whether such member qualifies for retirement, and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(2) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to the effective date hereof, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under section 171.1.3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after the effective date hereof, and receives compensation because of services rendered in other offices and departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 161 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account. [*New section, 1949*]

Section 171.1.10. All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution of each member under this section shall be based on his age taken to the next lower complete quarter year, (a) at the earlier of the dates he became a member under section 165, 165.2 or 171, in the case of persons who are members under these sections, or (b) on his age at the date he becomes a member under section 171.1 in the case of persons who become members on or after the effective date of this amendment, without credit for service counted under section 171.1.9. The age of entrance into the fire department shall be determined by deducting the member's service credited under section 171.1.9 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 171.1, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 171.1.2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed ten per cent.

(2) The dependent contributions of each member under this section which shall be required of each member throughout his

membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under section 171.1.2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 171.1.5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between ten per cent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in sections 171.1.7, 171.1.8 and 171.1.9.

(4) Contributions based on time included in paragraphs (1), (2) and (3) of section 171.1.9, and deducted prior to the effective date thereof, from compensation of persons who become members under section 171.1, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual ac-

counts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(6) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 171.1.10, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1) section 171.1.10, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 171.1, said percentage to be the ratio of the value on the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of

said periodical actuarial valuation and investigation into the experience under the system.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county. [*New section, 1949*]

SECTION 171.1.11. Upon the completion of the years of service set forth in section 171.1.2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said section 171.1.2, and nothing shall deprive said member of said right. [*New section, 1949*]

SECTION 171.1.12. No person retired as a member under section 171.1 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Notwithstanding any provision in this charter to the contrary, should any such retired person engage in a gainful occupation prior to attaining the age of sixty, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the amount of the compensation earnable at the time he engages in the gainful occupation, by the member if he then held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which

he was retired, immediately prior to its abolition. [*New section, 1949*]

Section 171.1.13. Any section or part of any section in this charter, insofar as it should conflict with these sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13 or 171.1.14, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1949*]

Section 171.1.14. Sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13, and 171.1.14, contained in the proposition therefor submitted to the electorate on November 2, 1948, shall take effect on the first day of July, 1949. [*New section, 1949*]

Compensation Insurance Payments

Section 172. The benefit provisions of the workmen's compensation laws included in the Labor Code of the State of California, as they affect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be reinsured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 35 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special officer shall receive the benefits of such compensation law from any other source.

Whenever any member of the fire or police department, as defined in sections 169, 171.1.1 and 168.1.1, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in or illness caused by the performance of his duty, as determined by the retirement board, he shall become entitled, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary as fixed by the charter, while so disabled, for a period or periods not exceeding twelve months in the aggregate, with respect to any one injury or illness. Said disability benefit shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workmen's compensation laws included in said Labor Code, shall be considered as in lieu of such benefits, payable to such person under the said Code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code. Medical treatment which may become necessary to relieve or cure said member from the effects of the injury or illness shall be furnished by the city and county, in the same manner that such treatment is furnished under said Labor Code, but without first requiring continuing awards of such treatment by the Industrial Accident Commission of the State of California, relating to impairments of permanent or of extended and uncertain duration. The provisions of this paragraph shall be administered exclusively by the retirement board, and the city and county shall pay to the retirement system during each fiscal year, an amount equal to the total disability benefits paid by said system during that year. A member of the fire or police department shall receive credit as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit. Contributions for the retirement system shall be deducted from said benefits in the same manner as they would be deducted from salary paid to him, and the city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member. [*Amended, 1937; 1952; 1953*]

A patrol special police officer appointed pursuant to § 35.10 is an employee of San Francisco within § 172, and the evidence supported a finding that his fatal injury arose out of and in the course of employment by the City where it appeared that he was apparently engaged in attempting to prevent the commission of a crime or to apprehend a criminal when he was killed. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207.

The evidence supported a finding that a special patrol officer was fatally injured in the course of his employment by the City where it appeared that he was fatally injured while en route from the scene of an emergency policing assignment to his routine duties. **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

HEALTH SERVICE SYSTEM

Section 172.1. Subdivision 1. A health service system for municipal employees is hereby established. Said system shall be administered by a board to be known as the health service board. The members of the system shall consist of all employees of the city and county who are members of the retirement system and all teachers and employees of the board of education who are members of said retirement system. Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayer in the practice of religion shall be exempted from the system upon filing annually with the health service board an affidavit stating such adherence and dependence and disclaiming any benefits under the system. The board shall have the power to exempt any person whose annual compensation exceeds forty-five hundred dollars ($4,500) and any person who has otherwise provided for adequate medical care.

Subdivision 2. The health service board shall consist of nine members elected by the members of the system. The first members of the board shall classify themselves by lot so that three shall serve for one year, three for two years and three for three years from and after May 15, 1937. Thereafter the term of office shall be three years. The president of the board shall act as the appointing officer under the civil service provisions of this charter for the appointing, disciplining and removal of such employees as may be authorized by the board. Each member of the board shall give bond in the sum of ten thousand dollars ($10,000), the premium on which shall be paid out of the funds of the system. Vacancies shall be filled for the unexpired term by a majority vote of the remaining members of the board. Members of the board shall be nominated by a written nomination of twenty members filed with the registrar of voters not earlier than April 1st nor later than April 15th of each year. The registrar of voters shall prepare ballots and shall furnish the same to all members of the system between April 15th and April 25th and shall receive the ballots between April 25th and May 7th and canvass and certify the results on May 8th. The registrar of voters shall have power to make such regulations respecting the form, distribution and canvassing of the ballots as may be necessary to secure secrecy of the ballots and prevent fraud. The persons equal in number to the number to be elected who receive the greatest number of votes shall be declared elected. Not more than one employee of any one department or office may be a member of the board. For the purpose of the first election, all employees eligible for membership in the system shall be deemed members.

Subdivision 3. The board shall have power:

(a) By a two-thirds vote of the entire membership of the board to adopt a plan or plans for rendering medical care to members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs, provided:

1. No member of the system shall be required to accept the services or medical supplies of any physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist or hospital selected by the board, but, subject to rules and regulations of the board, every member shall have the right to select, of his own choice, any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care as herein defined, who or which will render the required services pursuant to said rules and regulations, and the board shall make provision for the exercise of such notice; and is hereby expressly prohibited from entering into any exclusive contract for the rendering of said services;

2. Any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care shall have the right to furnish such services or medical supplies at uniform rates of compensation to be fixed by the board;

3. Such rates of compensation and any and all proposed contracts respecting the rendering of such services shall be reviewed by the retirement board of the city and county and shall not become effective unless and until approved by the retirement board. The retirement board may approve, refer to the health service board for further consideration, or disapprove any matter or proposal which is within its jurisdiction under the provisions of this section, and it shall act within sixty (60) days after any

matter has been submitted to it, and failure of the retirement board to approve, refer or disapprove the same within said period shall constitute an approval.

4. In January of each year, at public hearings, the health service board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable. Any such determination or revision shall be subject to review by the retirement board upon an appeal taken within thirty (30) days thereafter by a written petition filed with the retirement board and signed by not less than fifteen per cent (15%) of the members of the system or by not less than fifteen per cent (15%) of those of any one of the following groups who have contracted to render services to the members of the system: Physicians and surgeons; persons licensed to treat human diseases without the use of drugs; dentists; nurses; pharmacists; hospitals; other agencies of medical care. A copy of such petition shall also be filed with the health service board at the same time. The retirement board may approve or disapprove such determination or revision of the health service board by a majority of its members or refer the same to the health service board for further consideration. Failure of the retirement board to approve, refer or disapprove such determination or revision within sixty (60) days after filing the petition shall constitute an approval .

5. The health service board shall receive, consider and, within sixty (60) days after receipt, act upon any matter pertaining to the administration, operation or conduct of the health service system submitted to it in writing by any member of the system or any person who has contracted to render medical care to the members of the system.

6. The said retirement board is hereby authorized and empowered and it is hereby made its duty to exercise the powers and to perform the duties prescribed for it by this section.

(b) To put said plans into effect and to conduct and administer the same and, for all or any of said purposes, to contract therefor and use the funds of the system.

(c) To make rules and regulations for the transaction of its business, the granting of exemptions and the admission to the system of persons who are hereby made members thereof and such other officers and employees as may voluntarily become members of the system with the approval of the board.

(d) To appoint a medical director and such other employees as may be necessary. The compensation of the medical director shall be fixed by the board and he shall hold office at its pleasure. The employees, other than the medical director, shall be subject to the civil service provisions of the charter, provided that all employees who are actually employed or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date or such military leave of absence shall be continued in their respective positions and classifications as if appointed thereto after examination and certification from a civil service list of eligibles and shall thereafter be governed by and be subject to the civil service provisions of this charter. Prior to July 1st in each year the health service board shall fix the compensation of its employees, which compensation shall be the same as the rates of compensation fixed by the board of supervisors, under the provisions of section 151 of this charter, for similar classifications and services in other city and county departments. The health service board shall submit to the board of supervisors prior to July 1st of each year a list of the positions established under the health service board, and such positions and the compensation therefor shall be enumerated in the annual salary ordinance. Payrolls covering such positions shall be governed by section 150 of the charter.

(e) To make provision for the participation in the benefits of the system by the dependents of members, retired municipal employees and temporary municipal employees, provided that such participation shall be without cost to the city and county.

Subdivision 4. The board shall determine and certify to the controller the amount to be paid monthly by the members of the system to a fund for the purposes of the system hereby created. The controller shall deduct said sums from the compensation of the members and shall deposit the same with the treasurer of the city and county to the credit and for the use of the system. Such dedúctions shall not be deemed to be a reduction of compensation under any provisions of this charter. The board shall have control of the administration and investment of the funds, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the controller and the controller shall have and exercise the accounting and auditing powers over the funds of the system which are vested in him by this charter with respect to all other municipal boards, officers and commissions.

Subdivision 5. The term "medical care" shall include the services of physicians, surgeons, nurses, persons licensed to treat human diseases without the use of drugs, hospitalization, medicines and appliances, and dental, optical and other medical treatments and services.

All acts performed and services rendered under the provisions of this section shall be performed in accordance with the provisions as to professional conduct prescribed by the statutes of the State of California regulating such professional conduct and services.

Medical care, as defined in this section, shall not be furnished or supplied to any member of the system by or in any of the public health and hospital facilities of the city and county, except that emergency medical and hospital care may be rendered to any member of the system in the usual coarse of emergency health service.

Subdivision 6. Members of the system shall have and possess no claim or recourse against any of the funds of the municipality by virtue of the adoption or operation of any plan for rendering medical care, indemnifying costs of said care or carrying insurance against such costs, but the claim and recourse of any such member shall be limited solely to the funds of the system. All expenses of the system shall be borne exclusively by the funds of the system and the city and county shall not appropriate or contribute funds in any manner for the purposes of the system hereby established and provided. [*New section, 1937; amended, 1941; 1943*]

This section is not subject to the objections that it is invalid because the health board might exercise its delegated powers in a discriminatory manner, that it makes an unconstitutional delegation of power in violation of Const. art. xi, § 13, that it conflicts with the Insurance Code in authorizing an insurance business without a certificate of authority from the Insurance Commissioner, that it denies due process of law in providing a compulsory deduction in an uncertain amount from salaries of employees, that the exemptions constitute a denial of equal protection of the law, or that it illegally includes school teachers. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A.L.R. 838.

The use of the expression "adequate medical care" does not render the Charter provision subject to the objection that it is invalid because of the failure to set up a standard of such care. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A.L.R. 838.

The establishment of a health system for City employees is a municipal affair. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A.L.R. 838.

There is no improper discrimination in excluding employees with salaries over $450 per month, those relying on healing by prayer, and those who already have adequate medical care. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A.L.R. 838.

ELECTIONS

Registrar of Voters

SECTION 173. The conduct, management and control of the registration of voters, and of the holding of elections, and of all matters pertaining to elections in the city and county shall be vested exclusively in the registrar of voters. Except as in this charter otherwise provided, he shall succeed to the powers and duties of the board of election commissioners at twelve o'clock noon on the 8th day of January, 1932, at which time the terms of the members of said board shall terminate, and such board as theretofore existing shall be abolished. He shall establish precincts in the city and county as provided by law. The regular and temporary forces under the registrar, and the temporary forces, shall be appointed by him subject to the civil service provisions of this charter.

Municipal Elections

SECTION 174. On Tuesday after the first Monday in November in 1931 and every second year thereafter, there shall be held in the city and county an election to be known as the general municipal election, at which the electors of the city and county shall choose such officers as are required by this charter to be elected at that time. Special municipal elections shall be called by the registrar when required by this charter on the filing of appropriate initiative, referendum or recall petitions, as provided by this charter, and may be called by the supervisors for bond issues, declarations of policy, or for the voting on candidates for city and county offices not subject to election at general municipal elections.

All provisions of the general laws of this state, including penal laws, respecting the registration of voters, initiative, referendum and recall petitions, elections, canvass of returns and all matters pertinent to any and all of these, shall be applicable to the city and county, except as otherwise provided by this charter or by ordinance adopted by the board of supervisors as authorized by this charter relative to any rights, powers or duties of the city and county or its officers. When not prohibited by general law, the supervisors by ordinance may provide that the publication of precincts and polling places shall be by posting only.

See San Francisco v. Collins, § 2.

Nomination of Elective Officers

SECTION 175. The name of a candidate for an elective office shall be printed upon the ballot when a declaration of candidacy and certificates of not less than ten nor more than twenty sponsors shall have been filed on his behalf, and when the nomination shall be made in the following manner: The candidate, not more than fifty days before the municipal election in November, shall file with the registrar a declaration of his candidacy, in the form prescribed by the registrar for all candidates, including statements of his qualifications in not to exceed one hundred words, subscribed by him before the registrar. The registrar shall forthwith certify to the said subscription and its date and retain and file the declaration. The candidate shall pay to the registrar at the time of filing his declaration of candidacy the sum of thirty dollars ($30). After said declaration shall have been signed, certified and filed, and not later than thirty-five days before said election in November, not less than ten nor more than twenty sponsors for the said candidate, who are electors of the city and county qualified to vote at the said municipal election, shall appear before the registrar and shall certify under oath to the qualifications of the said candidate on a form of certificate prescribed by the registrar for all sponsors of all candidates.

In the event the registrar shall refuse to file such declaration of candidacy or certificate of a sponsor thereof, he shall forthwith designate in writing on the declaration or certificate the defect thereof, or other reason for refusing to file the same, and shall return the same to the party tendering it. No defect in any declaration or certificate presented to the registrar shall prevent the filing of another declaration or certificate within the period allowed for presenting the declaration or certificate. The name of every candidate who has been duly and regularly nominated shall be placed on the ballot under the title of the office for which he is a candidate, provided that a candidate whose nomination has been completed, may, not less than thirty days before a municipal election, withdraw as a candidate by filing with the registrar his withdrawal, naming the office: such withdrawal must be signed and sworn to by the person withdrawing.

The name of every candidate who has been nominated for office as hereinbefore provided shall be placed on the ballot in alphabetical order in accordance with the initial letter of his surname, under the heading of the office for which said candidate has been nominated in the following manner: The name of the candidate highest on the alphabetical list of candidates for any particular office shall be printed first on the ballot under the proper heading for said office in the lowest numbered assembly district in the city and county. Thereafter, in each succeeding assembly district, the name of the candidate appearing first for said office in the last preceding district shall be placed last and the order of the names of the other candidates for said office shall remain unchanged.

In the event that the number of candidates in any group shall exceed the number of assembly districts in the city and county then the total number of candidates in such group shall be divided by the number of assembly districts and the quotient of said division, if an integral number, or, if it be a fractional number, then the next highest integral number, shall be the number of candidates to be taken from the beginning of the list of said candidates and placed at the end of said list of candidates in each succeeding assembly district.

Immediately under the name of each candidate and not separated therefrom by any line may appear, at the option of the candidate, one of the following designations:

(a) Words designating the city, county, district or state office which the candidate then holds.

(b) If the candidate be a candidate for the same office which he then holds, and only in that event, the word "incumbent."

(c) The word designating the profession, vocation or occupation of the candidate. The profession, vocation or occupation so designated shall be the same as appears in the affidavit of registration of the candidate.

In all cases words so used shall be printed in eight-point roman boldface capitals and lower-case type.

No incumbent shall have any further preference in the location of his name on said ballot unless the same is permitted by this section.

The provisions of this section shall not be applicable to candidates for the office of the United States senator, representatives in Congress, state officials, members of the state senate or assembly, delegates to be selected at any presidential or state primary election, judges of the superior court, or judges of the municipal court.

The registrar shall preserve in his office for a period of four years all candidates' declarations and all sponsors' certificates filed in accordance with this section. [*Amended, 1943*]

Material to Be Mailed to Voters

Section 176. The registrar shall, before each municipal election, cause to be printed in pamphlet form and mailed to each registered voter with the sample ballot, a copy of all declarations and statements of qualifications of candidates received by him, to be followed by the names and addresses and occupations of all sponsors of all officers to be voted for in said city and county.

The registrar shall cause ballots to be printed identical with the ballot to be used in each assembly district at the election and shall furnish copies of the same on application to registered voters at his office at least five days before the date fixed for such election, and shall mail to each voter entitled to vote at such election a copy of the ballot to be used in his district, so that all said sample ballots shall have been mailed at least eight days before said election. The rotation of names of candidates on ballots shall be as provided by general law.

Precinct Boards of Election

Section 177. The registrar shall, at each municipal or special election, prepare lists for and appoint for each election precinct a precinct board of election officers to hold and conduct such election at the precinct for which said board is appointed. Such board shall consist of one inspector, one judge and two clerks, who shall perform all the duties required by law at such polling place, except as in this charter provided. When voting machines are used one inspector and two judges shall be appointed. The general law as to the appointment of election officers shall apply when not otherwise provided herein. The registrar is authorized to withhold the pay of any election officer who neglects, disregards or violates the election laws.

Determining Result of Election—Failure of Persons Elected to Qualify

Section 178. The canvass of voters, canvass of returns, declaration of election and certificate of election shall be made as provided by general law. If a person elected fails to qualify, the office shall be filled as in this charter provided for a vacancy in such office.

Initiative, Referendum and Recall

SECTION 179. The registered voters shall have power to propose by petition, and to adopt or to reject at the polls, any ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact, or any legislative act which is within the power conferred upon any other board, commission or officer to adopt, or any amendment to the charter. Such ordinance, act, charter amendment or other measure may be so proposed by filing with the registrar a petition setting forth said measure in full, signed by registered voters of the city and county as many in number as the percentages hereinafter required of the entire vote for all candidates for the office of mayor cast at the last preceding regular municipal election.

Any declaration of policy may be submitted to the electors in the manner provided for the submission of ordinances; and when approved by a majority of the qualified electors voting on said declaration, it shall thereupon be the duty of the board of supervisors to enact an ordinance or ordinances to carry such policies or principles into effect, subject to the referendum provisions of this charter.

Any ordinance which the supervisors are empowered to pass may be submitted to the electors by a majority of the board at a general election or at a special election called for the purpose, said election to be held not less than thirty days from the date of the call. Any such ordinance may be proposed by one-third of the supervisors or by the mayor, and when so proposed shall be submitted to the electors at the next succeeding general election. No ordinance passed by the supervisors granting any public utility franchise or privilege, shall go into effect until the expiration of sixty days from the date it becomes final. At the end of such sixty days such ordinance shall be in force and effect, unless within such period there shall be filed with the registrar a petition signed by registered voters equal in number to five per cent of the entire vote cast for mayor at the last preceding regular municipal election, requesting that such ordinance be submitted to the electors. In case such petition is filed, such ordinance shall not go into effect until approved by a majority of the voters voting thereon at a general or special election.

If, before the time any other ordinance involving legislative matters becomes effective, there shall be filed with the board of supervisors a petition signed by qualified electors of the city and county equal in number to at least ten per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance the same shall be suspended from going into operation, and it shall be the duty of the board of supervisors to reconsider such ordinance, and if the same be not entirely repealed, said board shall submit the ordinance to the vote of said electors either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless and until a majority of the qualified electors voting thereon shall vote in favor thereof. The provisions of sections 180 and 181 of the charter shall apply to and govern the verification and certification of such petition.

Annual budget and appropriation ordinances, supplemental appropriation ordinances, the annual salary ordinance, or ordinances amending the same, the ordinances levying taxes, any ordinance appropriating money from the emergency reserve fund, ordinances authorizing the city attorney to compromise litigation, and ordinances necessary to enable the mayor to carry out any of the powers vested in him in the case of a public emergency as defined in section 25 of the charter, ordinances enacted pursuant to section 219 of the charter, as well as ordinances relative to purely administrative matters, shall not be subject to referendum.

Any elective official, the chief administrative officer, the controller or any member of the board of education or the public utilities commission may be recalled by the electors. The procedure to effect such recall shall be as follows: A petition demanding the recall from office of the person sought to be recalled shall be filed with the registrar. Said petition shall contain a statement of the grounds on which the recall is sought. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held thereunder. No recall petition shall be filed against any officer until he has held his office for at least six months. [*Amended, 1935*]

The provision that ordinances necessary to enable the Mayor to carry out his emergency powers shall not be subject to referendum, does not require the passage of any ordinance or resolution to enable him to exercise his emergency powers. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Initiative ordinance prohibiting one-man street cars, held valid. **San Francisco v. Market Street R. Co.** (1938) 98 Fed. (2d) 628, rehearing denied.

Referendum, see notes under § 16.

Initiative, Referendum and Recall.—Where the right of referendum is reserved by city charter provision, the declaration of the Constitution that its provisions do not affect or limit the referendum power reserved to the people of any city by its charter, does not limit the constitutional reservation nor enlarge those reserved by such charter. The two reservations are thereby made independent of each other. The constitutional reservation goes to the full extent expressed by its language. If the charter differs from the Constitution in any respect it does not thereby diminish the power reserved by the Constitution. On the other hand, if the powers reserved by the charter exceed those reserved in the Constitution the effect of the charter would be to give to the people the additional powers there described. **Hunt v. Riverside** (1948) 31 Cal. (2d) 619, 191 Pac. (2d) 426; **Hopping v. Richmond** (1915) 170 Cal. 605, 150 Pac. 977.

As between provisions of the Constitution and the provisions of a city charter, those which reserve the greater or more extensive referendum power in the people will govern. **Hunt v. Riverside** (1948) 31 Cal. (2d) 619, 191 Pac. (2d) 426.

Referendum provisions should be liberally construed as a general rule in favor of the reserved power. But opposed to this principle is the rule that in examining and ascertaining the intention of the people with respect to the scope and nature of the referendum power, it is proper and important to consider what the consequences of applying it to a particular act of legislation would be, and if upon such consideration it be found that by so applying it the inevitable effect would be greatly to impair or wholly destroy the efficacy of some other governmental power, the practical application of which is essential and, perhaps, as in the case of the power to compel the improvement of streets, indispensable, to the convenience, comfort and well-being of the inhabitants of certain legally established districts or subdivisions of the state or of the whole state, then the courts may and should assume that the courts intended no such result to flow from the application of those powers. **Hunt v. Riverside** (1948) 31 Cal. (2d) 619, 191 Pac. (2d) 426; **Chase v. Kalber** (1915) 28 Cal. App. 561, 153 Pac. 397.

The referendum power over an ordinance providing for a sales tax enacted to provide revenue to pay the usual and current expenses of a city is not reserved by the Constitution (art. iv, § 1) which specifically excepts from the referendum power acts "providing for taxes or appropriations for the usual current expenses of the State." **Hunt v. Riverside** (1948) 31 Cal. (2d) 619, 191 Pac. (2d) 426.

A city ordinance imposing a tax for the privilege of selling at retail to provide revenue for payment of usual and current expenses is not subject to referendum under a charter excluding from the referendum provision ordinances providing for the "levying of taxes mentioned in this article" where the article in question men-tions "all taxes, licenses," etc., as constituting the revenue of the city, and where the charter in other articles contemplates the levy of a sales tax, and this, although the only taxes for which detailed provision is made in the article are property taxes. **Hunt v. Riverside** (1948) 31 Cal. (2d) 619, 191 Pac. (2d) 426, construing the Charter of Riverside.

Petitions

SECTION 180. The filing, verification and certification of initiative, referendum and recall petitions shall be in accordance with general law, and rules and regulations of the registrar of voters relative to details not covered by general law, except as otherwise provided by this charter. Any signer to a petition may withdraw his name from the same by filing with the registrar of voters a verified revocation of his signature before the filing of the petition. No signature can be revoked after the petition has been filed. Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains the signatures of the requisite number of registered voters, and after an election based thereon, the sufficiency of such petition shall not be questioned.

If any signature be questioned, the registrar shall mail notice to such purported signer, stating that his or her name is attached to such petition and citing him or her to appear before said registrar forthwith, naming the time and place. Said citation shall enclose a blank affidavit, which may be used to deny that the affiant signed such petition. If such person does not desire to attend in person, he may swear to such affidavit of denial before any officer authorized to take oaths, and mail the same to the registrar. If he does not so attend and deny such signature in person or by making and mailing such affidavit of denial before the time when the registrar must, under general law, make final determination, the signature to such petition must be treated as genuine. The registrar shall keep a list of the names of all purported signers who appear before him and deny their signature under oath, and also file and keep such affidavits for at least one year.

Special Election Fund

SECTION 181. The board of supervisors, in the first annual budget to be hereafter adopted by said board, shall appropriate not less than fifty thousand dollars to be known as the special election fund, to be used exclusively for defraying the cost of verifying petitions and other expenses of all special elections initiated by petition of the electorate, including recall elections. In the event of the expenditure of any of said fund, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said special election fund.

Time of Election

Section 182. If the petition accompanying a proposed initiative measure, declaration of policy, or recall be signed by registered voters equal in number to ten per cent of the entire vote cast for mayor at the last preceding general municipal election and contains a request that said measure, policy or recall be submitted forthwith to a vote of the electorate at a special election, then the registrar shall forthwith call a special election, which shall be held at a date not less than thirty nor more than forty days from the date of calling the same, at which said measure or policy, without alteration, or said recall shall be submitted to a vote of the electorate, unless within sixty days of a general or primary election, in which event it shall be submitted at such general or primary election.

If the petition accompanying a proposed initiative measure or declaration of policy be signed by registered voters equal in number to five per cent but less than ten per cent of the said entire vote, then such measure or measures, without alteration, shall be submitted by the registrar to a vote of the electorate at the next general state or municipal election that shall occur at any time after thirty days from the date of the certificate of sufficiency attached to the petition accompanying such measure unless the board of supervisors, by ordinance, direct that the measure or policy be voted on at a special election prior thereto.

Measures, Arguments and Statements of Controller Relating to Costs, to Be Mailed to Voters

Section 183. Whenever any measure is required by this charter to be submitted to the voters of the city and county at any election, the registrar shall cause the measure or policy to be printed on sheets measuring approximately six by nine inches, and shall mail the same with a sample ballot to each voter, at least five days prior to the election. This printed copy may be attached to any other matter required to be printed and mailed.

With or upon the sample ballot mailed to each voter prior to a recall election, there shall be transmitted the reasons for demanding the recall of the officer as set forth in the recall petition, printed in not more than three hundred words, and with or upon the same ballot the printed statement of the officer in not more than three hundred words justifying his course in office.

If the proposition be submitted to the registered voters upon an initiative, referendum or recall petition, the persons filing said petition shall have the right, upon deposit of an amount sufficient to defray the cost of printing as estimated by the registrar, to present to the registrar at any time not later than thirty-five days prior to said election, written arguments favoring their petition, and the registrar shall not accept arguments favoring said petition without the approval of those filing said petition; provided that, as to any proposition to be submitted to the voters at a special election in accordance with section 182 hereof, to be held within thirty-five days of the date of calling such election, such arguments may be presented to the registrar at any time twenty-five days prior to said election. If said proposition be submitted by the mayor or by the board of supervisors, or by one-third of the board of supervisors, they shall have a similar right, but without the making of such deposit, to present arguments. The board of supervisors may also in its discretion, by motion, grant to any proponents of propositions submitted by the board a similar right, which may be exercised, subject to the approval of such arguments by motion of the board and upon the making of such deposit. Any persons, committee or organization opposing the measure, policy, charter amendment, or recall placed before the voters may present, upon making a deposit as aforementioned, and in like manner and within the same time, written arguments opposing said proposition.

Said arguments shall not contain more than 1800 words, nor exceed four pages in length when printed. They shall be signed by the persons or the presiding or executive officials of the committee or organization presenting them. The registrar shall cause said arguments to be printed in a pamphlet approximately six by nine inches in size in one color of ink and in uniform style. They shall be arranged in numerical or alphabetical order according to the number or letter of the proposition to which they refer, and the affirmative in each case shall precede the negative. The registrar shall charge a uniform fee per page sufficient to cover the cost of printing said pamphlet, returning to depositors any excess of deposits. He shall mail one copy with the sample ballot to each voter.

Immediately after introduction in the board of supervisors, or filing with the clerk thereof, of any measure to be submitted to the voters, or of the filing of a petition of the voters for submission of any proposed amendment of the charter, in accordance with the provisions of Article XI, Section 8, of the Constitution of California, the clerk of the board shall deliver a copy of such proposition to the controller. The controller shall thereupon determine whether, in his opinion, such proposition, if adopted, will increase the cost of government of the city and county or in any way affect its tax rate. The controller shall make a written statement thereon to the board of supervisors, analyzing such proposition as to its cost and effect upon the tax rate. Such statement shall be in form appropriate for mailing to the voters with a sample ballot. Upon vote of submission of any such proposition, which, in the opinion of the controller, will in any way affect the cost of government or the tax rate and as to all propositions to create a bonded debt, the controller shall transmit a copy of such statement in relation thereto to the registrar of voters, who shall mail one copy thereof to each voter with the sample ballot. In the pamphlet of arguments, the position of the statement of the controller shall in each instance be next in order after the negative argument. [*Amended, 1949*]

Form of Ballot—Majority Vote

SECTION 184. The ballots used when voting upon any proposed measure, referendum, policy, recall or confirmation shall contain a general statement thereof, followed by the words "Yes" and "No," so arranged that the voter may indicate his choice upon the ballot. If a majority of the qualified electors voting on said proposed measure, referendum, policy, recall or confirmation shall vote in favor thereof, it shall go into effect ten days after the declaration of the official count. The general statement or question provided for in this section shall be prepared by the city attorney and shall consist of not over thirty words.

If the official proposed to be removed at any recall election shall, as the result of said election, be recalled, the mayor shall appoint his successor for the unexpired term and the officer so recalled shall be ineligible to hold any city and county office for two years; should said officer be retained in his office, he shall be reimbursed out of the special election fund for his expenses in such recall election; provided that such payment shall not exceed the amount he is permitted to spend under the Purity of Elections Act now in force.

Competing and Conflicting Measures—Repeal

Section 185. When two or more proposed measures are of the same general purpose, the registrar shall so declare, and shall cause the ballots to be so printed that the voter, first, may choose between any measure or none, and, secondly, may express his preference for any one. If a majority of the votes on the first question is affirmative, then the measure receiving the highest number of votes shall become law and the others fail of passage. In case two or more measures are tied for the highest vote, they shall be resubmitted at the next ensuing general election. If there is a conflict between two or more measures or between two or more charter amendments adopted at the same election, then the measure or charter amendment receiving the highest affirmative vote shall prevail.

No initiative, ordinance or measure or declaration of policy approved by the electorate under the provision of this charter shall be subject to veto, or be amended or repealed except by vote of the electorate, unless such ordinance or measure shall otherwise provide.

Substantial Compliance

Section 186. No informalities in conducting municipal, special, initiative, referendum or recall elections shall invalidate such elections if they have been conducted fairly and in substantial compliance with and conformity to the requirements of this charter.

SAN FRANCISCO-SAN MATEO CONSOLIDATION

Consolidation of San Mateo County

SECTION 187. In the event that all or any part of the area of the County of San Mateo shall be consolidated with the city and county in accordance with law and the constitution of the state, the provisions of sections 187 to 218, inclusive, of this charter shall become effective on the effective date of such consolidation and all other provisions of this charter in conflict with the provisions of said sections shall be thereupon and thereby superseded.

Definitions

SECTION 188. The following terms as used in sections 187 to 218, inclusive, in this charter, to-wit: "city and county," "county," "city," "governmental agency," "consolidate," and "consolidation," unless the context clearly indicates otherwise, shall have the same meanings as in that certain act of the Legislature of the State of California known as the San Francisco-San Mateo Consolidation Act of 1929, approved June 11, 1929. The term "voter" as used in said section means a qualified and registered elector who is a resident of the city, county, city and county, borough, or other territory concerned.

Continuation of Offices, Officers, Employees and Services

SECTION 189. Upon the consolidation of the county as a whole, the offices of assessor, auditor, coroner, county clerk, district attorney, recorder, sheriff, tax collector, and treasurer of said county shall become branch offices of the corresponding respective offices of the city and county, and the incumbents thereof shall become deputies in the said respective offices of the city and county, and shall continue as such to the end of the terms for which they were respectively elected or appointed.

The departments and offices of the city and county shall establish such branch offices in the territory consolidated as shall be necessary or convenient and as directed by the board of supervisors, but with no less amount of service in the said territory than shall have been provided by the county, or any city, or governmental agency of the county just prior to the time consolidation shall become finally effective.

Any full-time incumbent appointive officer or employee of the county, or any city, or governmental agency of the county, who shall have held such office or employment continuously for one year next prior to consolidation and whose duties shall be assumed by the city and county, shall become an employee of the department or office of the city and county assuming said duties and he shall, as such employee, thereafter be subject, without examination, to the civil service provisions of this charter, if any, applying to said employment.

Retirement Rights

SECTION 190. Any policeman or fireman of the county, or any city, or governmental agency of the county, who shall become an employee of the police or fire department of the city and county, and who may participate in any pension or retirement system of the city and county, shall receive credit for his prior continuous full-time service to said county, city or governmental agency.

Municipal Court

SECTION 191. All cases pending in any justices' court, police court or court of any recorder or other judicial municipal magistrate or office of the county, or any city, or governmental agency of the county conslidated with the city and county shall ipso facto be deemed to be and be transferred to the municipal court of the city and county. Such municipal court shall hold regular sessions in such borough or boroughs as the board of supervisors may, by ordinance, direct, and at least one such borough shall be so designated.

Recording

SECTION 192. Any instrument or judgment affecting the title to or the possession of real property situated in the territory of the county which may be consolidated with the city and county must be recorded in the branch office of the recorder of the city and county located in the territory so consolidated and all records in said branch office shall for all purposes be deemed records in the office of the recorder of the city and county.

Establishment of Boroughs

SECTION 193. Any territory included in the area that has become a part of the city and county by consolidation and which at that time is not already within a borough may be organized into a borough in the manner hereinafter set forth, provided such territory contain at least 3,000 population, as determined by ordinance of the board of supervisors. Any incorporated city included in the area that has become a part of the city and county by consolidation, which was such a city on or prior to January 1, 1931, shall automatically become a borough when consolidation becomes effective.

New Boroughs, Consolidation, Change in Boundaries, and Disestablishment of Boroughs

Section 194. Any new borough may be established, any two or more boroughs may be consolidated, the boundaries of any borough may be enlarged or diminished, or a borough may be disestablished, provided a majority of the voters of a borough, or boroughs, and/or of the territory concerned, voting on such a proposition at an election called for the purpose, shall first have voted in favor thereof; provided, further, that no borough shall be disestablished nor the boundaries of a borough diminished, unless the same be approved by the board of supervisors by ordinance, or a majority of the voters of the city and county voting thereon at an election called for the purpose, shall first have voted in favor thereof. Such elections shall be called by the board of supervisors upon receiving the report of the borough commission hereinafter provided for, and at any time thereafter upon receiving a petition of at least twenty-five per cent of the voters of the borough or boroughs or the territory concerned. If any petition of voters requests the establishment of a new borough or any change in the boundaries of an existing borough, the supervisors, before calling an election thereunder, must set the petition for public hearing and give notice thereof by publication at least once a week for two weeks in a newspaper published in the city and county. Upon such hearing, the board of supervisors shall have power to change and determine the boundaries as set forth in any such petition. No new borough shall be established, nor shall two or more boroughs be consolidated, nor shall the boundaries of a borough be enlarged or diminished, nor shall a borough be disestablished, unless a majority of the voters of the borough, or boroughs, or the territory concerned, voting on such a proposition, shall first have voted in favor thereof.

Within thirty days after consolidation is effective, every borough council must appoint one member to a commission to be known as the borough commission. The commission shall be charged with the duty of studying the boundaries of all boroughs within the city and county and of making recommendations to the board of supervisors concerning consolidation, disestablishment, or any change in boundaries of any borough or boroughs. This report shall be submitted to the board of supervisors within two years from the time consolidation shall become effective. Upon receiving the report of the commission, the board of supervisors shall without delay call an election or elections and submit appropriate propositions in accord with the recommendations of the commission to a vote of the voters of the territory concerned.

Upon the consolidation of two or more boroughs, all property thereof shall belong to the consolidated borough and such borough shall become responsible for all the debts and obligations of the boroughs consolidated. Upon a change of boundaries or disestablishment of a borough, the board of supervisors shall provide for the equitable adjustment and payment of any borough debts.

The board of supervisors, by ordinance, shall provide for the method and manner of calling and holding elections provided for in this section and for the canvassing of the returns thereof.

Borough Powers

Section 195. Every borough shall have and may exercise, subject to the provisions of this charter, the following powers and duties which shall be exclusive within borough limits except as otherwise provided herein:

(1) To create districts for the purpose of regulating the location, height, area, bulk, and use of buildings, lands and premises, and to exercise zoning and planning powers.

(2) To maintain public libraries and reading rooms.

(3) To maintain parks, playgrounds and other recreational facilities, and to construct and maintain buildings and works appurtenant thereto, except parks, playgrounds and recreational facilities maintained by the city and county

(4) To construct, improve and maintain streets and the bridges, sidewalks, street signs, lighting fixtures and all other appurtenances incident thereto; except highways maintained by the state or any joint highway district and any highway or street which the board of supervisors shall declare to be a major highway to be maintained by the city and county.

(5) To construct and maintain local sewers, sewage disposal plants, storm drains, and outfalls.

(6) To collect garbage and other wastes and to dispose of the same within or without borough limits, except as the board of supervisors shall otherwise provide for such disposal. Permission to dispose of garbage and other wastes outside of borough limits shall be first obtained from the city and county or the borough having jurisdiction of the territory in which such disposal is made.

(7) To erect, maintain and repair public buildings, and improve and maintain public property within borough limits devoted exclusively to borough uses; provided a borough shall maintain at least one public building, which the borough council shall select and in which the borough council shall meet.

(8) To have and exercise the same power within limits of a borough to open, widen, narrow, or close public streets and highways, and to establish the grades thereof, as is possessed by the city and county, except no borough shall close or narrow any highway maintained by the city and county without the approval of the board of supervisors.

(9) To exercise the powers of eminent domain whenever necessary to acquire property and easements for streets, highways, or other public purposes.

(10) To issue permits for any privilege in or on any street, within the jurisdiction of the borough, and to make regulations with regard to advertising by signs, billboards, banners, placards, posters, or pictures on any street, sidewalk, or private property, or upon any buildings, poles, or fences thereof, except within two hundred feet of any street or highway not under its jurisdiction.

(11) To issue permits for spur tracks.

(12) To establish fire limits for the regulation of building and construction of buildings.

(13) To license for purpose of regulation only such occupations as shall require regulation in the interest of public peace, health, or safety, and to prescribe the terms and conditions under which such licenses shall issue.

(14) To declare what shall constitute a nuisance and to provide for the summary abatement of the same at the expense of the person or persons creating, causing, committing or maintaining such nuisance, by suit or otherwise.

(15) To enact local police ordinances, not inconsistent with the laws of the state or ordinances of the city and county, and to make rules and regulations for the exercise of any power conferred herein on boroughs and to provide penalties for the violation thereof, provided such penalties shall not exceed the penalty limits applicable by law or under this charter to city and county ordinances; such local police ordinances to have all the force and effect within the limits of the borough of an ordinance of the city and county and as though passed and adopted by the board of supervisors.

(16) To create and define the powers and duties of all borough offices and employments, not established by this charter, necessary for the purpose of carrying out the provisions of this charter and executing the powers and duties of a borough; and to fix the compensation of all officers and employees of the borough not fixed by this charter.

(17) To call and hold borough elections whenever necessary.

(18) To levy borough taxes.

(19) To prepare and adopt an annual budget of estimated borough expenditures and to exercise control of all borough funds.

(20) To incur indebtedness for the purpose of carrying out any of the powers conferred on the borough.

(21) To create special districts for the purpose of defraying the cost of any public improvement which the borough is authorized to make, and to levy special assessments upon property materially benefited by such public improvement, and to issue bonds to represent or be secured by such assessments.

(22) To contract for such supplies, services, or labor, and to enter into such contracts as may be necessary.

(23) To employ a qualified person or persons to make an independent audit of borough funds and financial transactions of all kinds as the borough council may direct. If an audit is not made by the city and county, then the borough council shall provide for an audit at least once in every two years.

(24) To accept devises, bequests, legacies, donations or services to or for the use of the borough and to administer the same in accordance with the conditions thereof.

(25) To issue subpoenas for the attendance of witnesses or the production of books or documents for the purpose of producing evidence or testimony in any matter pending before the borough **council.**

(26) To employ legal counsel.

(27) To change the name of the borough, by ordinance, provided the ordinance making such change in name shall first be approved by a majority of the voters of the borough voting thereon.

(28) To provide, by ordinance, for civil service for borough employees under such conditions as are hereinafter provided, provided such ordinance shall first be approved by a majority of the borough voters voting thereon.

(29) To provide, by ordinance, for a system of retirement allowances for old age and disability and death benefits to dependents, applicable to officers and employees of the borough under conditions hereinafter provided, provided such ordinance shall first be approved by a majority of the borough voters voting thereon.

(30) To appropriate borough funds for supplementing any city and county service or function within the borough; such appropriations to be expended through the appropriate departments of the city and county.

(31) To enter into an agreement with any other borough or boroughs for the joint undertaking of any power conferred on a borough herein.

(32) To have and exercise all appropriate municipal powers which may be necessary or proper to the exercise of the foregoing powers or to the discharge of the foregoing duties, and which are not inconsistent with the other provisions of this charter.

Transfer of Borough Powers

SECTION 196. Any power over which a borough shall have exclusive jurisdiction within its limits, as herein provided, may be transferred to the city and county by a borough by ordinance of the borough council thereof, but not unless a majority of the voters of the borough, voting on the question of the transfer of such power, shall first have voted in favor thereof; provided, that no such power shall be transferred to the city and county unless such transfer is also approved by ordinance of the board of supervisors.

Borough Elective Officers and Terms

SECTION 197. The voters of a borough shall elect five members of the borough council, except as otherwise provided; and also a borough controller, unless a borough shall, by ordinance of the council approved by a majority of the voters thereof voting on such ordinance, vest the powers of borough controller in a borough manager. Except as otherwise provided, borough elective officers shall be elected to serve for terms of four years and until their successors are elected and qualify.

Within fifteen days after the establishment of a new borough created upon petition as herein provided, the mayor of the city and county shall appoint five qualified residents of the borough as members of the council to serve until their successors are elected and qualify. At the next succeeding general borough election, the voters thereof shall elect three members of the council to serve for terms of two years, and two members to serve for terms of four years, beginning at twelve o'clock noon on the 8th day of January following the date of their election.

The council of a borough which by consolidation is automatically established, shall consist of the same number of members as shall compose the council of the city at the time consolidation becomes effective. The city councilmen in office at the time of such consolidation shall continue in office as borough councilmen until the end of the terms for which they were respectively elected, and thereafter until twelve o'clock noon on the 8th day of January of the first succeeding even-numbered year. At the general borough election immediately preceding the expiration of the terms of any such members of a borough council, the voters of the borough shall elect their successors to serve for terms of four years. At every borough general election the successors to those elective borough officers whose terms are next expiring shall be elected to serve for terms of four years.

At the first meeting of the council, it shall appoint a borough controller to serve until his successor is elected and qualifies. At the next succeeding general borough election, the borough voters shall elect a borough controller to serve for a term of four years, beginning at twelve o'clock noon on the 8th day of January following the date of his election; provided, however, that if a majority of the members of the council are elected at the same time, the borough controller shall be elected to serve for a two-year term, and thereafter his term shall be for four years.

A candidate for any elective borough office shall have been an elector of the borough, or of the area comprising the same, for a period of at least five years prior to the date of election at which he is a candidate. No person who shall hold an elective or appointive office of the city and county shall hold any elective borough office.

A borough council may fill any vacancy in an elective office of a borough for the unexpired term thereof.

Duties, Meetings, and Compensation of Borough Councilmen

Section 198. The council shall constitute the legislative body of the borough and, except as otherwise provided, shall exercise the powers thereof.

The council shall provide by ordinance for the time and place of holding its meetings and the manner in which its special meetings may be called, provided, however, that there shall be at least two regular meetings in each month. The first meeting shall be held within thirty days after its establishment at the time and place upon which a majority of the council shall in writing agree upon. All legislative sessions of the council, whether regular or special, shall be open to the public. A majority of all members of the council shall constitute a quorum for the transaction of business. All borough records shall be open to the public.

No member of the borough council shall receive compensation for his services unless an ordinance providing for such compensation shall first have been approved by a majority of the borough voters voting thereon; provided, however, that councilmen of a borough automatically established shall continue to receive the same compensation as provided for councilmen by the city which it succeeds at the time consolidation becomes effective, until the borough provides otherwise by ordinance approved by a majority vote of the vote cast thereon.

The council shall by ordinance determine what bonds, if any, are to be given by the elective and appointive officers of the borough, and shall fix their amounts and form, and such bonds shall be approved in the case of a borough controller by the council and in the case of all other officers by the borough controller, and the premiums thereon shall be paid by the borough.

Borough President

Section 199. The council shall choose one of its own number as president to serve at its pleasure. The president shall be the executive head of the borough upon whom process issued by authority of law shall be served. In the name and on behalf of the borough he shall sign all legal instruments and documents to which the borough is a party except where otherwise provided herein or by ordinance. He shall have such other powers and perform such other duties as may be prescribed by law, or by ordinance or resolution of the council.

Borough Controller

Section 200. The borough controller shall have in addition to such duties as are prescribed by this charter, such other duties as may be prescribed by borough ordinance. No borough funds shall be drawn from the treasury of the city and county except by warrant issued or countersigned by him, and he shall countersign no such warrant until he has satisfied himself that the claim is a legal obligation of the borough. He shall keep in his office sufficient and proper records and accounts of the financial transactions of the borough. Such records and accounts shall be kept in the forms and manner as prescribed by the controller of the city and county. He shall have access at all times for himself, or for any person designated by him, to books, records and cash in any office of the city and county and/or of the borough in which accounts are kept or money handled on behalf of the borough. He shall have power to inquire into all contracts, including the performance thereof and into all proceedings involving the expenditure of public funds to which the borough is a party, and into the financial transactions of all officers and employees of the borough. For this purpose he may administer oaths, summon witnesses and order the production of relevant books and papers. If any person fails to obey such summons or order or refuses to answer any proper question, the borough controller may petition a court of competent jurisdiction for an order directing such person to comply with said summons or order or to answer such questions. He shall have power to employ such expert accountants or other agents as he may deem necessary to carry out his powers, and the council shall appropriate such funds as may be needed for this purpose.

Borough Clerk

Section 201. When consolidation becomes effective, the clerk of any city which is automatically established as a borough shall continue in office as borough clerk thereof until the expiration of the term for which he may be elected or appointed, and thereafter the council shall appoint a borough clerk who shall act as clerk of the council. He shall have power to administer oaths and affirmations, to take affidavits, and to certify the same. He shall have such other powers and perform such other duties as may be provided by this charter, or by ordinance, or order of the council.

Borough Planning Commission

Section 202. The council may provide, by borough ordinance, for a borough planning commission of five members. The ordinance shall provide for the qualifications, manner of appointment, terms, and compensation of the members of such commission, but no compensation shall be paid any member unless the ordinance providing for such compensation shall first have been approved by a majority of the borough voters voting thereon. Said ordinance shall provide that the borough planning commission shall have and exercise within the borough such powers and duties as shall correspond to, so far as possible, the powers and duties of the planning commission of the city and county.

Until a borough planning commission is provided, the council shall have and exercise within the borough such powers and duties of a planning commission as the council, by ordinance, may provide.

The borough planning commission, or the council, as the case may be, shall have such advisory powers relating to any planning matter of the city and county affecting any property, streets, public work or public improvement of or within the borough, as may be provided by ordinance of the board of supervisors.

The borough planning commission, or the council, as the case may be, shall have power to recommend changes in or the repeal of any city ordinance establishing zones for the uses of property within the borough which may be continued in effect upon consolidation. In the determination of which class of occupation zones the property within a borough may be divided, or in the modification of any city zoning ordinance continued in effect, the borough planning commission, or the council, as the case may be, shall accept the classification of occupation zones which the board of supervisors, by ordinance, shall establish for the city and county.

Borough Library Board

SECTION 203. The council may provide, by ordinance, for a borough library board of five members. The ordinance shall provide for the qualifications, manner of appointment, terms and compensation of the members of such board, but no compensation shall be paid to any member unless the ordinance providing for such compensation shall first have been approved by a majority of the borough voters voting thereon.

The borough library board shall have control and management of the borough library and the funds provided for same and shall have power to make such rules and regulations as necessary for the conduct of its affairs, but the treasurer of the city and county shall have custody of such funds.

Borough Manager

SECTION 204. The council may appoint a borough manager, provided, however, that no borough manager shall be appointed unless an ordinance creating such office shall first have been approved by a majority of the borough voters voting thereon, and which ordinance, when so approved, shall not be amended or repealed except by ordinance also approved by a majority of the borough voters voting thereon. The city manager of a city automatically established as a borough shall continue to hold such office as borough manager until removed by the council, and the council may appoint his successor.

The borough manager shall be chosen by the council without regard to political consideration and solely with reference to his executive and administrative qualifications. Residence within the borough shall not be a qualification for his appointment; but promptly thereafter during his term of office, he shall become and shall remain an actual resident of the borough.

The powers and duties of the borough manager shall be as follows:

(a) To act as administrative head of the borough government.

(b) To see that all borough ordinances are enforced.

(c) To appoint, remove, and have control of all subordinates and employees, except as otherwise provided by this charter or by ordinance of the borough.

(d) To see that all permits and privileges granted by the borough are observed and to report any violations thereof to the council.

(e) To attend meetings of the council.

(f) To advise the council on the needs of the borough.

(g) To devote his entire time to the interests of the borough.

(h) To have general supervision of borough parks and playgrounds.

(i) To appoint such advisory boards as he may deem desirable to advise and assist him in his work; provided such board shall not receive any compensation.

(j) To prepare the annual budget, as herein provided.

(k) From time to time, in order to facilitate the prompt, economical and efficient dispatch of borough business, to assign assistants, deputies or employees from any office or department of the government to perform work or service in any other office or department thereof, or to work in more than one of said offices or departments.

(l) To possess such additional powers and duties as may be provided in this charter or by ordinance.

The borough manager shall have the right to take part in the discussion of all matters coming before the council, but shall have no vote therein.

In case of the absence or disability of the borough manager, the council may designate some qualified person to perform the duties of the office temporarily.

No member of the council shall in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the borough manager in making of any appointment or the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for borough manager, or discuss, directly or indirectly, with any such candidate the matter of appointments to borough offices or employments. Any violation of the foregoing provisions of this section shall constitute a misdemeanor and shall work a forfeiture of the office of the offending member of the council, who may be removed therefrom by the council or by any court of competent jurisdiction.

No persons related to a borough manager by blood or by marriage shall be eligible for borough employment.

A borough manager may, by written agreement of the councils of the boroughs interested, act as joint manager for two or more boroughs, in which case he shall become a resident of one of the boroughs so interested and shall devote his entire time to the interests of such boroughs.

Borough Legislation

Section 205. The council shall act in legislative matters by ordinance only. Other action of the council, unless otherwise provided, may be taken by resolution, motion or order. No ordinance or resolution or order for the expenditure of money shall be passed without receiving the affirmative votes of a majority of all members of the council.

The enacting clause of all borough ordinances shall be as follows: "The people of the Borough of.................................(inserting the name of the borough) of the City and County of San Francisco do ordain as follows." No ordinance shall be passed by the council on the day of its introduction, nor within five days thereafter, nor at any time other than a regular meeting. A proposed ordinance may be amended or modified between the time of its introduction and the time of its final passage, providing its general scope and original purpose are retained. All ordinances shall be signed by the president and attested by the borough clerk and shall be published at least once in some newspaper of general circulation established, printed and published in the borough, and if there be no such newspaper they shall be posted in at least three public places in the borough before becoming effective.

Every ordinance passed by a council shall go into effect at the expiration of thirty days after its final passage, unless otherwise provided in said ordinance and as otherwise provided herein. Ordinances declared by the council to be necessary as emergency measures for the immediate preservation of public peace, health, or safety, containing a statement of the reasons for their urgency, and ordinances ordering or otherwise relating to elections, and ordinances relating to public improvements, the cost of which is to be borne wholly or in part by special assessments, may go into effect at the will of the council.

Borough Fiscal Procedure

SECTION 206. Within the time limits fixed by this charter for the preparation and adoption of the budget of the city and county, every borough shall cause to be prepared and shall adopt a borough budget which shall be a complete statement of the estimate of the revenues and expenditures of the borough departments for the ensuing year. Such budget shall be prepared substantially in the same manner and in such detail as required for the budget of the city and county so far as the same may be applicable. Upon the adoption of the budget, it shall take effect at the same time and shall be binding upon the borough in substantially the same degree and in the same manner as the city and county budget shall be effective and binding upon the city and county.

The fiscal year of a borough shall be the same as for the city and county.

Within the time limits fixed by law or by this charter for the city and county, the borough council may levy a borough tax sufficient to raise the amount estimated to be required in the annual budget as herein provided, less the amounts estimated to be received from fines, licenses, and other sources of revenue; but such levy, exclusive of the tax to pay the interest and maintain the sinking funds of the bonded indebtedness of the borough, and exclusive of special assessment and district taxes and of the library tax, shall not exceed the rate of one dollar on each one hundred dollars of the assessed valuation of the taxable property within the borough. Should the council fail to fix the tax rate within the time prescribed, then the borough tax rate of the previous year shall constitute the rate of the current year. The council, by ordinance, may provide for a higher tax limit, but such tax limit shall not be effective unless the ordinance fixing such tax limit shall first have been approved by a majority of the borough voters voting thereon.

All borough taxes levied, together with interest thereon and any percentage imposed for delinquency and the cost of collection, which shall be those prescribed in this charter for the city and county, shall constitute liens on the property assessed, which taxes, interest, penalties and charges shall be collected in the same manner as is provided for the collection of city and county taxes, and which liens may be foreclosed upon in the same manner as is provided for the foreclosure of liens for city and county taxes.

All borough taxes shall be levied on the valuation of the taxable property within the borough as shall be fixed by the assessor of the city and county for city and county tax purposes.

There shall be a borough fund for each borough. All borough taxes shall be collected by the tax collector of the city and county and shall be paid into the city and county treasury to the credit of the borough concerned, together with all revenues of a borough received from fines, licenses, and other sources of revenue, except as otherwise provided. Money shall be payable from a borough fund only on warrants drawn with the approval of a borough council by such borough officer as the council may authorize, and when countersigned by the borough controller.

The manner and time within which deposits of borough moneys received from taxes, licenses, fees, fines, penalties, forfeitures, and all moneys accruing to a borough from any source shall be made and the transfer and disposition of all surplus funds, shall be provided for by ordinance of the board of supervisors, and shall be uniform for all boroughs.

The council shall not create, audit, or permit to accrue, any debt or liability in excess of the available money in the borough fund of the borough that may be legally apportioned and appropriated for such purpose; provided that taxes levied though uncollected are deemed available income and revenue for the year for which levied; and provided, that any borough, during the first year of its existence, may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it in such year, nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the borough fund legally applicable to the payment of the same, except as hereinafter provided. When any order or demand is presented to the borough controller for approval and is not approved for want of funds and the amount of said order or demand does not exceed the income and revenue for the year in which the indebtedness was incurred, such borough controller must indorse thereon the words, "not approved for want of funds," with the date of presentation and shall, in attestation thereof, affix his signature thereto; and shall number such indorsement and shall register said order or demand in the records of his office and shall thereupon deliver said order or demand to the claimant, or his order. From that time, such order or demand shall bear interest at the rate of six per cent per annum. Such orders or demands, so registered as herein provided, shall be paid in the order in which the same are registered.

All license taxes collected by the city and county within the limits of any borough shall be credited to the borough fund of such borough by the treasurer of the city and county.

Borough Tax Subventions

Section 207. For those boroughs which shall within their own boundaries perform municipal functions concerned with the maintenance of streets, sewers, parks, libraries, and playgrounds, which would otherwise be the municipal obligation of the city and county, the board of supervisors shall by ordinance provide for a system of subventions to such boroughs from tax funds of the city and county, provided that in no event shall such subvention to any borough in any one fiscal year either exceed the amount which such borough shall appropriate out of borough funds in that year for such municipal functions, or exceed the amount which the city and county shall raise in that year by city and county taxes for similar municipal purposes of the city and county upon the assessed valuation of taxable property within such borough. Such system of subventions may be modified from time to time by the board of supervisors by ordinance, but all ordinances providing for such a system shall apply generally to all boroughs.

Borough Bonded Indebtedness

Section 208. A borough may incur an indebtedness, exceeding in any year the income and revenue provided for such year, for the purposes of paying the cost of any borough improvement or acquisition within the power of the borough to make or acquire and may issue and sell borough bonds for such purposes, provided said indebtedness and bonds are authorized as herein provided by ordinance or resolution of the borough pledging the faith and credit of the borough therefor. Such ordinance or resolution shall be adopted and the proposition for the issue and sale of such bonds shall be submitted to a vote of the voters of the borough in substantially the same form and manner and according to the same procedure as is provided in this charter for the issue and sale of bonds by the city and county, or in the manner and form and according to the procedure provided in any general law of the State of California in force at the time governing the issue and sale of bonds by municipalities, so far as the same may be applicable.

No such debt shall be incurred and no such bonds shall be issued by any borough without the assent of two-thirds of the voters thereof voting thereon at an election to be held for that purpose, nor unless before or at the time of incurring said debt or issuing said bonds provision shall be made for the collection of an annual tax sufficient to pay the interest on such debt or bonds as it falls due and provision shall also be made to constitute a sinking fund for the payment of the principal thereof on or before maturity.

In no case shall borough bonds be issued for a term which shall exceed the estimated life of the work or improvement for the payment of which they are issued as certified by the council in the ordinance calling the bond election, nor for a term to exceed forty years.

No bond shall be issued on the faith and credit of the borough which will increase the bonded indebtedness thereof beyond five per cent of the assessed valuation of the property within the borough subject to direct taxation as shown by the last preceding assessed valuation.

The proceeds from the sale of borough bonds shall be applied exclusively to the purposes and objects to which the voters of the borough have assented, until such purposes and objects have been accomplished, after which the surplus, if any, shall be transferred to the bond interest or redemption fund of the borough.

Borough bonds shall not constitute a debt or general obligation of the city and county.

Borough Special Assessments

SECTION 209. In the exercise of its power to provide for the payment of the cost of any public improvement in whole or in part by special assessment levied against the property benefited thereby, a borough acting through its council may establish local improvement districts and levy and collect special assessments and reassessments to pay the costs and expenses of such improvements, which expenses shall be made and assessments levied and collected in conformity with the procedure set forth in this charter for the city and county, or with the procedure set forth in any ordinance passed or adopted thereunder, or with the procedure set forth in any one or more of the general laws of the State of California in force at the time of the improvement relating to the doing of public work or the making of public improvements in municipalities or in counties, so far as the same may be applicable. The council may provide in accordance with the procedure set forth in said charter or said ordinance or general law or laws for the issuance, sale, payment and redemption of interest bearing bonds to represent or to be secured by such assessments or any reassessments remaining unpaid after a certain period, either singly or in the aggregate, and may provide that such assessments or reassessments may be paid in installments and be collected in the same manner in which city and county taxes are collected or otherwise, and for the sale of lands burdened by such assessments or reassessments and for the purchase of same on behalf of the borough in event of nonpayment, and may provide other alternative methods for such collection by foreclosure or otherwise. Such work or improvements are any permitted to be done by boroughs under this charter or by the city and county or by any such procedure, ordinance or general law.

Nothing contained herein shall prevent the board of supervisors from establishing similar local improvement districts where the same shall cover territory in two or more boroughs or parts thereof, or cover territory lying partly within and partly without a borough, or from levying and collecting special assessments and reassessments to pay the cost and expenses of such local public improvements.

Borough Contracts and Official Advertising

Section 210. In the preparation of estimates, calling for bids, advertising, and awarding of contracts for supplies, materials, labor, official advertising, or for any public work, a borough shall be subject to the provisions of any ordinance as the board of supervisors shall provide to be applicable uniformly to all boroughs. Such ordinance shall follow as closely as practicable the provisions of this charter relating to such matters applicable to the city and county and shall charge borough officers with appropriate duties in the premises.

Contracts for the official advertising of a borough shall be let as this charter provides for the letting of contracts for official advertising of the city and county, provided that any such contract shall be let to a daily or weekly newspaper of general circulation established, printed, and published in the borough, if any such there be. If there be no such newspaper, then such contract shall be let to a daily or weekly newspaper of general circulation established, printed and published in the city and county.

Any newspaper of general circulation which for one year next prior to consolidation was established, printed and published in the territory consolidated with the city and county shall thereafter be deemed to have been so established, printed and published as a newspaper of general circulation for said period of one year within said city and county for all purposes of official publication or advertising.

The advertising of the delinquent borough tax list of the property within a borough shall be let by the board of supervisors to the lowest responsible bidder for publication in a newspaper of general circulation printed and published within such borough, if any such there be, and otherwise in such a newspaper printed and published in the city and county and such delinquent tax list shall be published in such newspaper at least once.

Interest in Borough Contracts

SECTION 211. No officer or employee of a borough shall be or become directly or indirectly interested in any contract of such borough. Any such officer or employee violating the provisions of this section shall forfeit his office or place of employment and be disqualified from being elected, appointed or employed in the service of such borough, or the city and county, or any other borough thereof, and such contract shall be void.

Borough Civil Service

SECTION 212. Whenever the voters of a borough shall approve an ordinance of the council providing for civil service for officers and employees of the borough, the council shall enter into an agreement with the civil service commission of the city and county for the administration of the civil service system of the borough, and it shall provide in the borough budget for the payment to the city and county of the costs of such services.

In any such ordinance it shall be provided that all borough officers and employees, not otherwise exempt as herein provided, shall be subject to the civil service provisions of this charter as far as they may be consistently applicable to such officers and employees. Such ordinance shall further provide that there shall be no exemption of any borough officers or employees from the borough civil service system except in the case of elective borough officers, appointees to any borough board or commission not required to give full-time service, and the borough manager, if any. Such ordinance may also provide that any borough officer or employee, who shall be subject to the borough civil service system and who has been continuously employed full-time for one year prior thereto by the borough or by the city automatically established as such borough, shall without any examination be deemed appointed within the civil service provisions of this charter to the position to which he may be assigned and entitled to all the benefits of said civil service provisions thereafter.

Borough Pensions

Section 213. Whenever the voters of a borough shall approve an ordinance of the council providing for retirement allowances and death benefits applicable to officers and employees of the borough, the council shall enter into an agreement with the retirement board of the city and county for the administration of the borough retirement allowances and death benefits, and for contributions by the borough and the borough officers and employees to the retirement system of the city and county in like manner as is provided for such administration and contributions by the city and county and city and county officers and employees.

The right of borough officers and employees to participate in such a retirement system, the manner in which they may participate, and the benefits they may enjoy, shall be those provided by the retirement system for officers and employees of the city and county.

In any such borough ordinance it may be provided that any officer or employee participating in its benefits shall receive credit for his prior continuous full-time service to the borough and/or to the city automatically established as such borough, and all liabilities accruing under such system because of such prior service shall be met by the borough.

Borough Elections

Section 214. The primary and general elections of a borough shall be held at the time provided in this charter for municipal primary and general elections of the city and county. Except as otherwise provided in this charter, the council by ordinance shall call any special borough election and notice of such special election shall be given by proclamation issued by the president of the council and posted and published as the council may direct for the period of at least thirty days next preceding the date of such election. Any borough election shall be conducted and canvassed in the same manner as an election of the city and county, but the cost of any special election shall be borne by the borough. A borough special election may be called to be held on any day appointed for any primary or general election of the city and county.

Borough Initiative, Referendum, and Recall

SECTION 215. The voters of a borough may invoke the initiative provisions of this charter to apply to any borough ordinance, and they may also invoke the referendum provisions of this charter to apply to any ordinance, act or measure of a borough council. The council may submit any ordinance it is empowered to pass to a vote of the borough voters. The voters of a borough may invoke the recall provisions of this charter to apply to any elective borough officer. It shall be the duty of the board of supervisors, by ordinance uniformly applicable to all boroughs, to make the provisions of this section effective.

Interchange of Services

SECTION 216. Any department, officer, or employee of a borough may be permitted to perform services for any department or office of the city and county, and may be compensated for such services by the city and county, provided approval thereof is first obtained from the proper borough authority.

Borough Continuation of Employees, Contracts, and Ordinances

SECTION 217. Except as otherwise provided, any employee of a city consolidated with the city and county, who shall be in the employ of any department or office of such city, the power over which shall be conferred upon a borough automatically established as successor to any such city, shall continue in the position to which he may be assigned in the employ of the borough until the end of his term or if without a term until removed by the authority to whom power of removal is committed.

All contracts for materials, supplies and labor, and all public works, special assessments or similar proceedings entered into or undertaken by a city consolidated with the city and county in force or in course of performance when consolidation becomes effective, shall be continued and perfected by the borough automatically succeeding any such city, provided the borough shall have jurisdiction in the matter for which such contracts were entered into or over such public works, special assessment or similar proceedings, and otherwise by the city and county.

All ordinances of a city consolidated with the city and county which are not inconsistent with the provisions of this charter or with any ordinance of the city and county shall, until repealed or amended by borough ordinances, be continued in force as ordinances of the borough automatically succeeding such city.

General Legislation for Boroughs

Section 218. The board of supervisors shall have general power to enact all legislation necessary to permit boroughs to exercise their powers or perform their duties under any provisions of this charter and not otherwise provided for herein. Such legislation shall be consistent with the provisions of this charter relating to the city and county or to boroughs and shall be uniform for all boroughs.

MISCELLANEOUS

Per Diem and Mileage

SECTION 219. Except in the discharge of routine duties, traveling and payment of expenses therefor shall be authorized only by ordinance; provided, that allowances therefor shall not exceed cost of transportation, including Pullman charges, if any, and a reasonable amount per diem for necessary expenses, which per diem shall be fixed annually by ordinance and shall be applicable to all officers and employees.

Cited Without Particular Application: Powell v. San Francisco (1944) 62 Cal. App. (2d) 291, 144 Pac. (2d) 617.

Office Hours

SECTION 220. Except where otherwise provided by law, all public offices shall be open for business every day, except legal holidays, from eight thirty o'clock A.M., until five o'clock P.M. The supervisors by ordinance may provide that any office shall be kept open for a longer time, when necessary for the accommodation of the public, and may also provide by ordinance that any office shall be closed on Saturday of each week during all or any part of the year. [*Amended, 1951*]

Civil Service Exemptions

SECTION 221. References throughout this charter to the exclusion or the exemption from the civil service provisions of this charter shall be construed to mean, exclusive of those civil service provisions that relate to examination, appointment and removal.

Prohibited Practices of Officers and Employees

SECTION 222. No member of any board or commission shall accept any employment relating to the business or the affairs of any person, firm or corporation which are subject to regulation by the board or commission of which he is a member. No supervisor and no officer or employee of the city and county, shall be or become, directly or indirectly, interested in, or in the performance of, any contract, work, or business, or in the sale of any article, the expense, price or consideration of which is payable from the treasury; or in the purchase or lease of any real estate or other property belonging to, or taken by, the city and county, or which shall be sold for taxes and assessments, or by virtue of legal process at the suit of the city and county; nor shall any person in this section designated during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for, the city and county, or any department or officer thereof, or in any franchise, right or privilege granted by the city and county, unless the same shall be devolved upon him by law; nor shall any person mentioned in this section give or promise any money or other valuable thing, or any portion of his compensation, in consideration of his nomination, appointment, or election to any city and county office or employment; or accept any donation or gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee, or from any candidate or applicant for a position as employee or subordinate under him. Violation of any of the provisions of this section shall constitute official misconduct.

Penalty for Official Misconduct

SECTION 223. Any person found guilty of official misconduct shall forfeit his office, and shall be forever after debarred and disqualified from being elected, appointed or employed in the service of the city and county.

Publication

SECTION 224. Whenever advertising or publication is required by the provisions of this charter, it shall mean one publication in the official newspaper of the city and county, unless a greater number of publications is specifically required; provided that notices inviting bids shall be published for at least three consecutive days, except as provided in section 95 of this charter.

Headings and Captions

SECTION 225. Headings and captions used in this charter, whether the same occur between sections or immediately preceding section numbers, are hereby declared to be for no other purpose than the convenient indication of the general subject matter of the provisions which follow, and they shall not be considered or construed in connection with the text of this charter in any way so as to alter or modify the meaning or intent of the provisions of this charter, as such meaning or intent would be determined if such headings and captions were not used.

The Charter is to be construed as a law enacted by the Legislature. **Bruce v. Civil Service Board** (1935) 6 Cal. App. (2d) 633, 45 Pac. (2d) 419, (citing **C. J. Kubach Co. v. McGuire** (1926) 199 Cal. 215, 248 Pac. 676; **Stern v. Berkeley** (1914) 25 Cal. App. 685, 145 Pac. 167; **Taylor v. Cole** (1927) 201 Cal. 327, 257 Pac. 40; **Whitmore v. Brown** (1929) 207 Cal. 473, 279 Pac. 447; **Yosemite, etc. Corp. v. State Board of Equalization** (1943) 59 Cal. App. (2d) 39, 42, 138 Pac. (2d) 39.

Inasmuch as a city Charter is an enactment in the exercise of the lawmaking power of the state, it is subject to recognized rules of statutory construction, including the rule that the state and its agencies are not bound by general words limiting the rights and interests of its citizens unless such public authorities be included within the limitation expressly or by necessary implication. **C. J. Kubach Co. v. McGuire** (1926) 199 Cal. 215, 248 Pac. 676, construing Los Angeles Charter.

To ascertain the meaning or intent of the various provisions of a charter, different sections or provisions must be read together with a view to harmonizing them. **Bruce v. Civil Service Board** (1935) 6 Cal. App. (2d) 633, 636, 45 Pac. (2d) 419, citing **Marshall v. Williams** (1927) 85 Cal. App. 507, 259 Pac. 970; **Crowe v. Boyle** (1920) 184 Cal. 117, 193 Pac. 111.

It is a fundamental and universal rule in the construction of statutes, including charter provisions respecting pensions, that they shall be given prospective, not retrospective effect, unless the latter effect is made compulsory by the language of the act itself. **Jordan v. Retirement Board** (1939) 35 Cal. App. (2d) 653, 96 Pac. (2d) 973.

The province of the Board of Supervisors with respect to Charter amendments is limited to the approval of the form of the amendments to be submitted to vote of the electors, and when the courts are called on to construe an amendment the question is as to what the electors understood and intended, not what the supervisors may have stated. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

The fact that two amendments relating to different subject matters are submitted jointly as one proposition on the ballot does not convert them into a single amendment and require that they be construed together. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

Constitutionality

SECTION 226. If any section, subsection or subdivision, sentence, clause or phrase of this charter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of this charter. The people of the City and County of San Francisco hereby declare that they would have ratified and adopted, and the Legislature hereby declares that it would have approved, this charter, and each section, subsection or subdivision, sentence, clause and phrase hereof as the charter of the City and County of San Francisco, irrespective of the fact that any one or more other sections, subsections or subdivisions, sentences, clauses or phrases be declared unconstitutional.

This section works a complete destruction of the old terms of office, and obviates the objection that the continuance in office of certain incumbents in office at the Charter's effective date had the effect of extending their terms in violation of Const. art. xi, § 9. **Rand v. Collins** (1931) 214 Cal. 168, 4 Pac. (2d) 529.

CHARTER RATIFICATION AND EFFECTIVE DATE

Schedule—Effective Date of Charter

This charter shall take effect at twelve o'clock noon on the 8th day of January, 1932, except as otherwise specifically provided in this charter; provided, however, that offices which, under the charter superseded by this charter, shall have been filled by vote of the electors of the city and county, and which, by this charter, are made appointive offices shall not be filled by vote of the electors at the general municipal election of 1931. Upon its approval by the Legislature of the State of California, this charter shall take effect as herein provided and shall supersede the charter of the said city and county in force at the time immediately preceding such approval.

APPENDIX A

INITIATIVE ORDINANCES

REFUSE COLLECTION AND DISPOSAL ORDINANCE

Adopted by the Voters as an Initiative Measure at an Election Held November 8, 1932, and Amended by the Voters on November 5, 1946.

Providing for the Collection and Disposition of Refuse in the City and County of San Francisco; Providing for the Licensing of Refuse Collectors by the Director of Public Health; Fixing the Maximum Rates or Charges for the Collection of Refuse by Licensed Refuse Collectors from Homes, Apartment Houses, Stores, etc.; Dividing City and County of San Francisco into Collection Routes; Providing Penalties for the Violation of the Provisions of this Ordinance.

Be it Ordained by the People of the City and County of San Francisco as follows:

SECTION 1. The term "refuse" as used in this ordinance shall be taken to mean all waste and discarded materials from dwelling places, households, apartment houses, stores, office buildings, restaurants, hotels, institutions and all commercial establishments, including waste or discarded food, animal and vegetable matter from all kitchens thereof, waste paper, cans, glass, ashes, and boxes and cuttings from trees, lawns and gardens.

SECTION 2. It shall be unlawful for any person, firm or corporation to dispose of refuse as defined in this ordinance except as herein provided, save that the provisions of this ordinance shall not include refuse which may be incinerated by an owner of a building for himself or for his tenants on the premises where produced; provided, however, that such incineration shall be subject to inspection and control by the Director of Public Health and the Fire Department. Failure of any householder producing refuse to subscribe to and pay for refuse collection, unless such householder is a tenant for whom refuse collection service is provided by his landlord, shall be prima facie evidence that such householder is disposing of refuse in violation of this ordinance.

SECTION 3. Refuse consisting of waste or discarded food, animal and vegetable matter, discarded containers of food, animal and vegetable matter and ashes shall be collected and placed in suitable metal cans of thirty gallons or less capacity by the producer or landlord who by reason of contract or lease with an occupant is obligated to care for such refuse, for collection by a refuse collector to be disposed of as herein provided. Waste paper and boxes and other refuse materials not subject to putrefaction, or decay, and cuttings from trees, lawns and gardens may be placed in any suitable container and delivered by the producer or landlord, who by reason of contract or lease with the occupant is obligated to care for such refuse and deliver same to a refuse collector, to be disposed of as herein provided; provided, however, that it shall be optional with the producer or landlord to deliver waste paper or other refuse having a commercial value to a refuse collector, and the producer or landlord may dispose of the same in any manner he may see fit. Any charge made by a refuse collector for removal from residences, flats or apartments of waste material not placed in metal cans shall not exceed rates fixed herein for collection and disposal of equivalent volumes of refuse. Refuse which under the provisions hereof must be deposited in a metal can of suitable capacity shall be removed daily from the place where the same is created.

SECTION 4. It shall be unlawful for any person, firm or corporation, other than a refuse collector licensed by the Director of Public Health as in this ordinance provided, to transport through the streets of the City and County of San Francisco any refuse as in this ordinance defined, or to collect or to dispose of the same, except waste paper, or other refuse having a commercial value. It is provided, however, that a license for a refuse collector, as provided in section 8 hereof, shall be distinguished from a permit to operate, in the City and County of San Francisco on a certain designated route, as hereinafter provided.

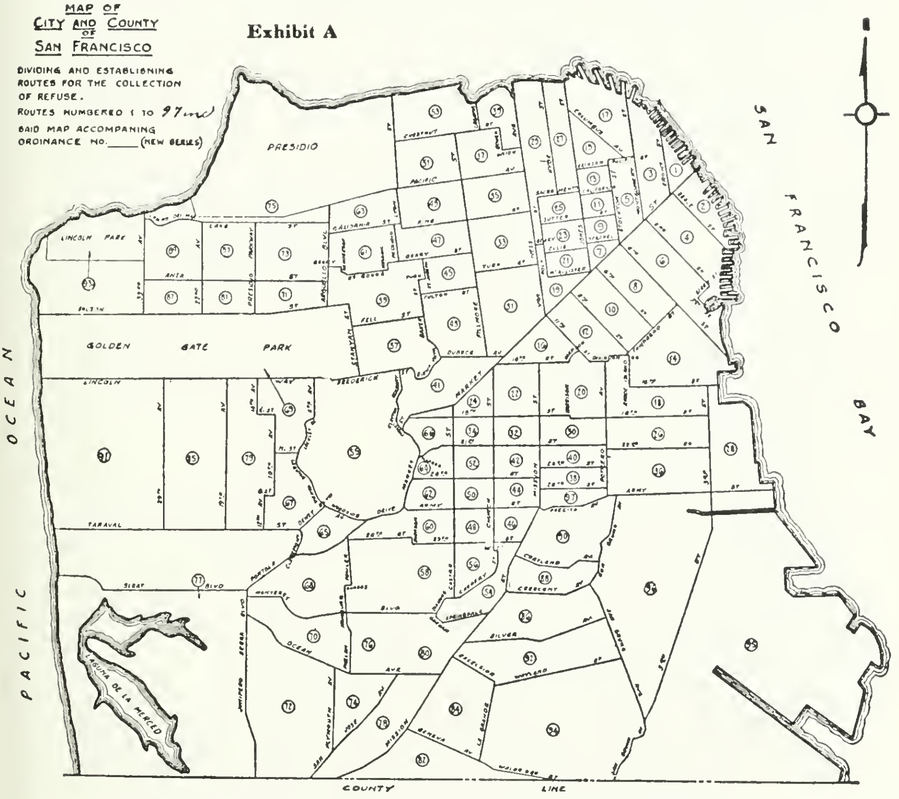
Upon the conviction of any person, firm or corporation for any violation of the provisions of this ordinance, the permit of such person, firm or corporation issued under the provisions of this ordinance, shall be forthwith and immediately terminated and canceled as of the date of conviction.

The City and County of San Francisco is herewith divided and established into routes for the collection of refuse, as designated on a map of the City and County of San Francisco, attached hereto, each said route to include only the side of the street or streets bounding each route as designated by a number on said map, said routes being numbered one to ninety-seven inclusive, and said map and said routes are marked Exhibit A, and attached hereto and made a part of this ordinance.

Any person, firm or corporation desiring to transport through the streets of the City and County of San Francisco, any refuse as herein defined, or to collect or dispose of the same, shall make application to the Director of Public Health for permission so to do. Said application for such permit shall contain the name of the person, firm or corporation, any of the particular route or routes, designated in said map of routes, proposed to be served by said person, firm or corporation, and a statement that said person, firm or corporation will abide by all the provisions of this ordinance, and will not charge a greater rate for the collection and disposition of said refuse than that fixed in this ordinance.

The Director of Public Health shall grant such application for a permit, but may refuse the same when the route proposed is already adequately served by a licensed refuse collector. An application for a permit must be granted, however, by the said Director of Public Health, and it is mandatory on said director to grant the same, when it shall appear in any said application for a route or routes by a person, firm or corporation, that twenty per cent

Exhibit A


MAP OF CITY AND COUNTY OF SAN FRANCISCO
DIVIDING AND ESTABLISHING ROUTES FOR THE COLLECTION OF REFUSE.
ROUTES NUMBERED 1 TO 97 and
SAID MAP ACCOMPANING ORDINANCE NO._____ (NEW SERIES)
PRESIDIO
LINCOLN PARK
GOLDEN GATE PARK
SAN FRANCISCO BAY
PACIFIC OCEAN
LAGUNA DE LA MERCED
COUNTY LINE

MAP OF THE CITY AND COUNTY OF SAN FRANCISCO or more of the householders, business men, apartment house owners, hotel keepers, institutions or residents in said route or routes, using refuse service, and paying for same, or obligated to do so, have signed a petition or contract in which they have stated that they are inadequately served by any refuse collector who is then collecting refuse on said route. That inadequate service is herein defined as the failure, on the part of any refuse collector to properly collect refuse on said route, or the overcharging for the collection of same, or for insolence towards persons whose refuse has been collected, or the collection of any refuse collector whose license has been revoked as provided in section 9 hereof. Such permit so granted by the Director of Public Health shall not be exclusive, however, and one or more persons, firms or corporations may be given a permit to collect on the same route.

Persons, firms or corporations desiring to transport through the streets of the City and County of San Francisco only waste paper or other refuse having a commercial value, and to collect and dispose of same need not obtain a permit therefor under the provisions of this ordinance from the Director of Public Health as for the collection of other refuse.

Section 5. All refuse collected by any refuse collector shall be incinerated at the San Francisco incinerator, located in the block bounded by Alameda, Fifteenth, Rhode Island and DeHaro streets, or at some other incinerator, hereafter designated by the board of supervisors of the City and County of San Francisco, or shall be disposed of by any other method designated by the board of supervisors, except dumping at sea. It is provided, however, that metals may be melted at places other than at said incinerator.

That said incinerator shall be placed under the control of some person, firm or corporation designated by the board of supervisors and said person, firm or corporation, shall incinerate in said incinerator all refuse received, as herein provided, or the Board of Supervisors may provide for the disposition of refuse by any other means, except dumping at sea, as provided by law or ordinance of the City and County of San Francisco, and said person, firm or corporation incinerating, or otherwise disposing of said refuse as herein provided, may charge the refuse collector for such disposition, a charge may be agreed upon between the refuse collector and said person, firm or corporation for so disposing of said refuse. Provided, however, that if such charge cannot be agreed upon, such charge shall be fixed and determined by the Board of Supervisors, but in no event shall the charge exceed the maximum of one dollar and fifty cents per ton. Should any dispute arise between the refuse collector and the person, firm or corporation having control of said incinerator, or other disposition of refuse, as provided for by law, concerning the amount of such charge, pending the determination thereof by the Board of Supervisors as herein provided, the person, firm or corporation having charge and control of said incinerator or other disposition of said refuse, shall continue such disposition until the matter of such charge will have been determined by the Board of Supervisors, and upon such determination, the refuse collector shall pay to the said person, firm or corporation the amount fixed by said person, firm or corporation in charge of said incinerator for all refuse incinerated or otherwise disposed of pending said dispute.

Section 6. The rates or charges for the collection and disposition of refuse as herein defined, by refuse collectors, shall be as follows:

Monthly rates from residences and flats for one container of not exceeding thirty gallons. Made from the ground floor:

Collections Per Week

No. Rooms	*(1)*	*(2)*	*(3)*	*(4)*
1 to 4, incl.	$ .60	$ .75	$1.00	$1.30
5	.65	.85	1.05	1.35
6	.65	.85	1.05	1.40
7	.75	1.00	1.15	1.45
8	.80	1.10	1.30	1.50
9	.85	1.15	1.35	1.60
10	.90	1.25	1.45	1.75
11	.95	1.30	1.50	1.80
12	1.00	1.40	1.60	1.90

Monthly rates from residences and flats for one container of not exceeding thirty gallons. Made from second floor, one stairway above ground floor or basement:

Collections Per Week

No. Rooms	*(1)*	*(2)*	*(3)*	*(4)*
1 to 4, incl.	$ .65	$ .85	$1.05	$1.35
5	.75	.90	1.15	1.45
6	.75	.95	1.30	1.50
7	.80	1.05	1.35	1.60
8	.90	1.25	1.45	1.70
9	.95	1.30	1.50	1.75
10	1.00	1.35	1.50	1.85
11	1.00	1.40	1.60	1.90
12	1.05	1.50	1.75	2.05

Monthly rates from residences and flats for one container of not exceeding thirty gallons. Made from third floor, two stairways above ground floor or basement:

Collections Per Week

No. Rooms	*(1)*	*(2)*	*(3)*	*(4)*
1 to 3, incl.	$ .70	$ .85	$1.10	$1.40
4	.70	.85	1.35	1.45
5	.75	.90	1.50	1.50
6	.75	.90	1.60	1.70
7	.90	1.30	1.70	1.80
8	.95	1.40	1.80	1.85
9	1.00	1.50	1.90	2.00
10	1.00	1.50	2.05	2.10
11	1.05	1.60	2.15	2.25
12	1.10	1.75	2.25	2.35

Monthly rates from residences and flats for one container of not exceeding thirty gallons. Made from fourth floor, three stairways above ground floor or basement:

Collections Per Week

No. Rooms	*(1)*	*(2)*	*(3)*	*(4)*
1 to 3, incl.	$ .70	$ .95	$1.35	$1.60
4	.70	.95	1.50	1.85
5	.85	1.05	1.70	2.00
6	.90	1.10	1.80	2.10
7	1.00	1.45	1.90	2.20
8	1.00	1.50	2.05	2.30
9	1.05	1.70	2.15	2.40
10	1.05	1.80	2.25	2.50
11	1.10	1.90	2.35	2.65
12	1.25	2.05	2.45	2.75

Monthly rates from apartment houses:

Collections Per Week

No. Rooms	*(6)*	*(4)*	*(3)*	*(2)*	*(1)*
10	$ 2.40	$1.90	$1.70	$1.50	$1.40
20	4.50	3.90	3.50	3.10	2.90
30	6.30	5.10	4.70	4.10	....
40	7.80	6.90	5.90	....	....
50	9.00	8.15	6.90	....	....
60	10.00	9.20	....	....	....
70	11.00	10.30	....	....	....
80	12.00	11.20	....	....	....
90	13.00	12.10	....	....	....
100	14.00	12.90	....	....	....
110	15.20	....	....	....	....

No. Rooms	Collections per Week (6)
120	$16.30
130	17.40
140	18.50
150	19.60
160	20.70
170	21.80
180	22.90
190	24.00
200	25.10
210	26.00
220	27.00
230	28.00
240	29.00
250	30.00
260	31.00
270	32.00
280	33.00
290	35.00
300	36.00
310	37.00
320	38.00
330	39.00
340	40.00
350	41.00
360	42.00
370	$43.00
380	45.00
390	46.00
400	47.00
410	47.20
420	48.30
430	49.40
440	50.50
450	51.60
460	52.70
470	53.80
480	54.90
490	56.00
500	57.10
510	58.20
520	59.30
530	60.40
540	61.50
550	62.60
560	63.70
570	65.80
580	65.90
590	67.00
600	68.00

Rates for residences and flats shall be increased for more than one container of a maximum of thirty gallons by 10 cents per additional container per collection.

The rates for more than 600 rooms in any one apartment house shall be subject to contract between the owner or lessee of the apartment house and a duly licensed refuse collector.

In determining the number of rooms of any household, building or apartment in order to ascertain the rate for the collection and disposition of refuse therefrom, halls, alcoves, storerooms, bathrooms, closets and toilets shall not be considered as rooms, nor shall basements or attics be considered as rooms unless the same be occupied as living quarters.

Any collection and disposition charges not specifically set forth herein shall be subject to contract between the producer and a duly licensed refuse collector.

SECTION 7. It shall be unlawful for any refuse collector to charge a greater rate for the collection and disposition of refuse than that fixed in Section 6 of this ordinance.

Nothing herein contained shall be taken or construed as preventing a refuse collector from charging a less rate or charge for the collection of refuse than that fixed in Section 6 of this ordinance.

SECTION 8. Each licensed refuse collector shall be assigned a number by the Director of Public Health. The Director of Public Health shall furnish each collector a metal badge on which is marked the number assigned the collector, who at all times while collecting refuse shall wear said badge in plain view. The Director of Public Health shall collect from each collector for the expense of providing said badge and the issuance of said license the sum of $5. Each vehicle or wagon in which refuse is transported through the streets shall be assigned a number by the Director of Public Health and the number thereof shall be plainly marked thereon.

SECTION 9. The license, as distinguished from a permit herein, of any refuse collector, may be revoked by the Director of Public Health for failure on the part of the refuse collector to properly collect refuse, or for overcharging for the collection of same, or for insolence towards persons whose refuse he is collecting, and it shall be unlawful for any person whose license is so revoked to collect refuse in the City and County of San Francisco.

No license of a refuse collector shall be revoked except upon a hearing of which the refuse collector has been given a notice of at least three days.

SECTION 10. Upon the payment of the rate fixed in this ordinance for the collection and removal of refuse, the person paying the same shall be entitled to, and there shall be delivered to him a receipt on which shall be shown the amount paid, the premises for which it is paid, the name and number of the collector, the number of the vehicle or wagon, and, in clearly legible print, the schedule of rates herein set forth for his classification of establishment. On the face of said receipt there shall be printed the following words: "The rates for the collection of refuse are fixed by initiative ordinance and are printed on the back of this receipt. Complaints as to service should be made to the Department of Public Health."

Section 11. Disputes over charges made by collectors or as to the character of the service performed shall be decided by the Director of Public Health. Any charges made in excess of rates fixed in this ordinance, when determined by the Director of Public Health, shall be refunded to the person or persons who paid the excess charge.

Section 12. A refuse collector shall be entitled to payment for the collection of refuse at the end of each month from each householder or landlord served by him and from whom the payment is due.

Section 13. The initiative ordinance passed by the People of the City and County of San Francisco on June 14, 1927, providing for the collection and disposition of refuse in the City and County of San Francisco; providing for the licensing of refuse collectors by the Board of Health; fixing the maximum rates or charges for the collection of refuse by licensed refuse collectors from homes and apartment houses; dividing City and County of San Francisco into collection routes; and providing penalties for the violation of the provisions of this ordinance, and all other ordinances in conflict herewith, are herewith repealed.

Section 14. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred ($500) dollars, or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment.

Section 15. This ordinance shall take effect ten days after the declaration of the official count of the votes cast therefor; provided, however, that for the purpose of issuing licenses to refuse collectors, application may be filed and the licenses issued during the period between the final approval of this ordinance and the date of its taking effect.

Section 16. During the month of January each year the Controller of the City and County of San Francisco shall survey and examine into the rates to the producer for the collection and disposition of refuse, with a view to a reduction in such rates, and upon completion thereof shall report his conclusions to the Board of Supervisors. The Board of Supervisors may by a two-thirds vote reduce the rates upon receipt of said report when found to be justified, and may by a two-thirds vote increase said rates, but not to exceed the rates herein set forth. The Board of Supervisors shall have no other right to amend this ordinance. Each collector holding a permit shall keep such records as may be required by the Controller to produce the information necessary for the purposes of this section. The records shall be made available to the Controller at his request. At intervals of six months the Controller shall furnish the Department of Public Health estimates of the cost per hour for refuse collections from establishments for which rates are not fixed by this ordinance.

Section 17. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. It is hereby declared that this act, and each section, subsection, sentence, clause and phrase thereof, would have been passed irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases had been declared unconstitutional.

REGULATION OF STREET RAILWAY CARS

Adopted by the Voters as an Initiative Measure
at an Election Held May 2, 1934

Providing for the Operation of Street Railway Cars by a Motorman and Conductor, Specifying the Entrance Age of Employees on Street Railways, and Providing a Penalty for Violations Hereof.

Be it Ordained by the People of the City and County of San Francisco as follows:

SECTION 1. Every street railway car, while carrying passengers in the City and County of San Francisco, shall be in charge of a motorman and a conductor, and each of said employees must be an adult of not less than twenty-one (21) years of age, and no such street car shall be operated in said City and County of San Francisco while carrying passengers, unless the same is in charge of a motorman and conductor having the qualifications herein provided for.

This ordinance shall not be repealed, modified or amended except by vote of the electorate.

SECTION 2. Any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offense, not less than Fifty Dollars ($50.00), nor more than Three Hundred Dollars ($300.00), or by imprisonment for a term not exceeding six (6) months in the County Jail of the City and County of San Francisco, or by both such fine and imprisonment.

INDEX

SECTION

ABANDONMENT
  Street railway lines 132.1
  Streets 107
    —streets, power of boroughs as to 195

ABOLITION
  Board of election commissioners, of 173
  Positions, ordinance, by 143

ABSENCE
  Acting mayor, designation of 25
  Leaves of, see Leaves of Absence
  Mayor, of, effect on passage of ordinances 14
  Residence requirements, exceptions 7

ACADEMY OF SCIENCES. See California Academy of Sciences

ACCIDENT
  Transfer of disabled employees to other positions 156

ACCOUNTS
  Appropriation accounts 76
  Borough controller, employment by 200
  California Palace of Legion of Honor, accounts of secretary 50
  Controller, of 64, 76
  Health service funds 172.1
  M. H. de Young Memorial Museum, accounts of secretary 51
  Utilities, for 64

ACCRUAL
  Retirement allowances, of 165.2 (A)

ACCUSATIONS
  Officers or employees, against 154
  Superintendent of schools, charges against 136
  Teachers, charges against 135

ACTIONS AND PROCEEDINGS
  City attorney, duties of 26
  Civil service commission, powers of 141
  Consolidation of counties, transfer of cases on 191
  Compromise
    —city attorney, by 26, 48 (i)
    —referendum of ordinances authorizing 179
  Criminal actions, see that title
  Dismissal by city attorney 26
  Fees, collection for law library 57
  Harbor commission, prosecution and defense of actions 48 (i)
  Officers, actions against, representation by city attorney 26
  Power to appear in, sue or defend 2
  Process, service on mayor 25
  Representation of city and county or officer by city attorney 26
  Settlement by city attorney 26
  Taxpayers' suits, allowance of costs and attorney's fees 27

ACTUARIAL
  Pension, electing actuarial equivalent of 166

ACTUARIAL TABLES
  Retirement system, for 160

INDEX

SECTION

ACTUARY
Compensation benefits and premiums, determination of 172
Recommending retirement benefit tables 168, 171
Retirement board, actuary of 159
Retirement system, of, duty as to tables, rates and valuations 160

ADDRESSES
Sponsors of candidates, of, mailing to voters 176

ADMINISTRATION
Borough funds, of, by controller 200
Complaints to mayor 25
Health service system 172.1
—by retirement board 172.1
Noninterference in affairs by mayor or supervisors, etc 22
Referendum of administrative ordinances 179
Retirement board, by, of compensation law 172
Retirement system, of 159
Workmen's compensation 172

ADMINISTRATIVE CODE
Enactment and publication 23

ADMINISTRATIVE OFFICES
Chief administrative officer, see that title
Recall of 179

ADMISSION
Health service system, to 172.1

ADOPTION
Ordinances, see that title
Resolutions, see that title
Salary schedule
—board of education, by 135
—board of supervisors, by 151

ADULT PROBATION BOARD. See Probation Boards or Committees

ADULT PROBATION COMMITTEE. See Probation Boards or Committees

ADULT PROBATION OFFICERS. See Probation Officers

ADVERTISING
Borough powers as to 195
Budgeting and control of expenditures for 60
Civil service examinations, time, place, etc., for 144
Official 224
—boroughs, of 210
Publication, see that title

AFFIDAVITS. See Oath or Affirmation
Borough clerk, power to take affidavits 201
Health service, for exemption from 172.1
Initiative petition, denial of signing 180
Recall petition, denial of signature to 180
Referendum petition, denying signing of 180

AFFIRMATION. See Oath or Affirmation

AFRICAN HALL
Simson, authority of Academy of Sciences over 52

INDEX

SECTION

AGE
Employees, of
—retirement system membership, for 158
—transfer where disabled by age 156
Fire and police departments, of applicants for positions in 145
Police service, for, discharged service men 153
Firemen, discharged military men 153
Firemen's children, of, as affecting pension 169
Police members, age as basis of contributions to retirement fund 168.1 (I)
Retirement, of 165, 165.2 (B)
—elective officers 158.1
—in fire department 169, 171
—members of police department 166, 168, 161.1 (B)
—resuming work prior to specified age 163
Salvage corps members 38.1

AGENCY
Governmental agency, defined 188

AGENTS
Borough controller, employment by 200

AGRICULTURAL COMMISSIONER. See Horticultural Commissioner

AIRPORTS
Department under utilities commission 122
Employees 125
Jurisdiction of utilities commission 125
Lease of lands 93
Public utilities commission, authority over 121

ALIENS
Employees to be citizens 7
Public utility work, aliens ineligible for 125

ALLEYS. See Streets

ALLOWANCES
Benefit, as including allowance 165.2 (A), 168.1 (A)
Compensation, allowances including in term 165.2 (A)
Defined 168.1 (A)
Retirement allowances, see Retirement System

ALPHABETICAL ORDER
Names on ballots 175

AMENDMENTS
Approved declaration of policy, of 185
Charter, of 2, 179, 183, 185
—printing and furnishing arguments respecting 183
Initiative measure, of 185
Ordinances, see that title
Rules of civil service commission, of 141
Schedules of compensation, of 151

AMOUNTS
Benefits to families of policemen killed on duty 166
Official bonds, of, see Officers
Compensation, see that title, also Employees, Officers
—as basis of retirement contributions or benefits 158.1
—for exemption from health service 172.1
Compensation insurance, premiums 172

SECTION

AMOUNTS—(Continued)
Death benefits, firemen 169
Disciplinary fine, of, in police and fire departments 155
Health service fund, monthly payments to 172.1
Official bonds, of, see Officers
Pensions, of
—reduction for engaging in gainful employment 163
—to family of deceased police officer 166
—to members of police department 166
Retirement allowances and benefits, of,
—elective officers 158.1
—firemen 169
—reduction for engaging in gainful employment 163
Reimbursement, of, to officers retained on recall 184
Retirement system
—appropriations for firemen's pensions 169, 170
—appropriations to meet prior service liabilities 160
—benefits on death of police member 166
—contributions 160
—City and County, by 166
—members of police department, by 166
Special election fund, of 181
—sums to reimburse 181
Words, of, election statements and arguments 183

ANSWERS
Civil service examinations, see Civil Service Examinations

APPEALS
Bonds, custody of 30
Civil service commission, to
—of suspension or dismissals 154
—right of dismissed employee 148
Health service board, from, to retirement board 172.1
Permit appeals, appeal to board of 39
Planning commission rulings 117

APPEARANCE
Civil service commission meetings, opportunity to appear at 140
Hearing of charges, at
—members of fire and police departments 155
—superintendent of schools 136
Registrar of voters, before
—of signers of initiative, recall or referendum petition 180
—of sponsors of candidates 175
Power to appear in proceedings 2

APPLICATIONS
Employment, for, rules governing 141
Examination, for, under civil service 144
License, for 24
Permit, for 24
Retirement, for 158.1
Retirement system, for membership in 158.1

APPOINTMENTS
Actuary of retirement board 159
Appointing officer under civil service, see Civil Service
Assessor, by 28

SECTION

APPOINTMENTS—(Continued)
Board of law library trustees 57
Borough
  —commission, members of 194
  —by council 194
  —planning commission 201
  —to council 197
California Palace of Legion of Honor, personnel of 50
City attorney, by 26, 34
City engineer 106
Civil service
  —appointments exclusive of 142
  —commission, appointments by 140
Clerk of board of supervisors 12
Department or bureau heads, by 20
District attorney, by 29, 30, 34
Elective officers, by 34
Emergency 149
Health service board president, by 172.1
Law librarian and assistants 57
Limited tenure 145.1
Mayor, by, see Mayor
Medical director 172.1
Merit, fitness and other considerations 140
Non-civil service appointments
  —appointments exclusive of civil service 142
  —department or bureau heads, authority of 20
  —when authorized 145.1
Noninterference by supervisors, etc 22
Notice of, to civil service commission 143
Official misconduct as barring from appointment 223
Particular officers, by, see that officer
Patrol special officer 35.10
Precinct boards 177
President of commission 19 (a)
Probationary period 148
Probation officers 58
Public defender, by 33, 34
Qualifications 7
Recalled officer, of successor to 184
Registrar of voters, by 173
Removal of appointive officers 11
Requisitions to civil service commission 148
Retirement board
  —by 172.1
  —of members of 159
Rules of commission to govern 141
Secretary, see that title
Sheriff, by 32, 34
Special police officer 35.9
Superintendent of parks 40
Temporary 20
Treasurer, by 31, 34
Unexpired term, for, of retired officer 158.1
Vacancies in office, see Offices

SECTION

APPOINTMENTS—(Continued)
Veterans, of 145
—preference to 153
Wartime appointments 145.1

APPROPRIATIONS. See also Budget
Accounts, appropriation 76
Allotment schedule 72
—additional allotments 72
Art advancement, supervision of expenditure for........ 46
Authority to use money within limits of appropriation........ 72
Borough
—for controller of........ 200
—funds, of........ 195
California Academy of Sciences, for........ 52
California Palace of the Legion of Honor, for........ 50
Capital improvement projects, referral to planning department as prerequisite........ 69.1
Chief administrative officer, items subject to........ 72
Controller
—certificate as to appropriation as prerequisite to incurring obligation 86
—duties of 72
Draft of ordinance........ 72
Emergencies, reallocation or deduction........70.1 (6)
Emergency reserve fund, appropriations for and from........ 79
Health service system, city not to appropriate funds to........ 172.1
Market Street Railway, appropriations to pay purchase price 119.1 (6)
Mayor's office, for administration of........ 25
M. H. de Young Memorium Museum, for........ 51
Music, supervision of appropriations for........ 46
Ordinance 143
—annual appropriation ordinance
—amount derived from mandatory tax, limitation........ 72
—materials, etc., segregation for departments........ 90
—passage 72
—readvertising where draft amended........ 72
—revolving funds, establishing........ 75
—veto 70
—employment classification titles and numbers to be used 141
—readings and passage........ 13
—referendum of, prohibited........ 179
—subject, confinement to appropriation........ 13
—supplemental appropriation ordinance, see infra this title Supplemental appropriation
—veto or reduction by mayor........ 14
Purchaser's revolving fund........ 90
Public improvement revolving fund, appropriations to........ 110
Purchaser's revolving fund, appropriations to........ 90
Retirement system, for........ 160
—firemen's benefits, for........169, 170
Salaries and wages, for, conformance to compensation schedules 151
Salary survey fund, for........ 151
Schedule of allotments governing expenditures, preparation.... 72

INDEX

SECTION

APPROPRIATIONS. See also Budget—(Continued)
- Special election fund, for ... 181
- Steinhart Aquarium, for ... 52
- Supplemental appropriations
  - —civil service examinations, for ... 145.1
  - —examinations for emergency appointments, for ... 149
  - —ordinance ... 80
    - —positions continued or created ... 73
    - —subject, confinement to appropriation ... 13
- Utility deficit, restrictions on appropriation for ... 74
- War memorial, for ... 44

APPROVAL
- Academy of Sciences, proposed buildings, etc., of ... 52
- Appointing officer, of, to transfer of disabled employee ... 156
- Appointments and removals by department or bureau head ... 20
- Bonds, city attorney's approval as to form ... 26
- Cash reserve fund, transfer to ... 80
- Chief administrative officer, acts approved by ... 20
- Civil service commission, of, termination of limited tenure appointments ... 145.1
- Contracts, by chief administrative officer ... 95
- Controller, appointment of ... 63
- Election arguments, of, before filing with registrar ... 183
- Eligible list, of ... 147.1
- Harbor commission leases ... 48 (e)
- Health service board, by, of membership in health service system ... 172.1
- Leaves of absence, approval of rules as to ... 153
- License, approval by planning commission ... 24
- Ordinances, by mayor ... 14
- Payrolls, rules of civil service commission to govern ... 141
- Retirement board, by
  - —actuarial tables, rates, etc ... 160
  - —decisions of health service board ... 172.1
  - —medical compensation rates ... 172.1
  - —retirement benefits ... 168, 171
- Salaries or compensation, of, fixed by departments ... 151
- Supervisors, of
  - —Academy of Sciences, proposed buildings, etc., of ... 52
  - —boroughs, establishment of or changes in ... 194
  - —compromise of actions for harbor commission ... 48 (i)
  - —expenditures from salary survey fund ... 151
- Title to realty acquired by City and County, of ... 26
- Warrants, of, for payment of personal services ... 150
- Work of art for City and County ... 46

AQUARIUM. See Steinhart Aquarium

AQUEDUCTS
- Joint use with City and County, arrangements for ... 121

AREAS
- Outside boundaries, acquisition and maintenance ... 2
  - —recommendations respecting ... 116

INDEX

SECTION

ARGUMENTS

- Election measures, on 183
  - —filing with registrar 183
  - —mailing copies to voters 183
- Special elections, on 183
  - —filing with registrar 183
  - —mailing arguments to voters 183
  - —stating in petition 180

ARMED FORCES. See Army and Navy, Veterans, War.

- Service in, employees of health service system 172.1
- Retirement system, membership option to returned service-men 165.2 (A)

ARMY AND NAVY

- Leaves of absence for service in 153
  - —health service system employees 172.1
- Retirement as affected by service in
  - —firemen 161
  - —members of police department 168.1 (H)
- Retirement system, exercise by service-men of option as to membership 165.2 (A)
- Service in, not to interrupt service under retirement system 161
- Veterans, see Veterans

ARRANGEMENT

- Ballots, of statements on 184

ARREST

- Warrant of arrest
  - —district attorney, issuance by 29
  - —warrant and bond deputy, drawing by 30

ART COMMISSION

- Academy of Sciences, approval of proposed buildings, etc 52
- Advice or suggestion to owners of private property 46
- Decision on expenditures, time limit 46
- Members of commission 45
- Powers and duties 46
- Purchase of works of art 88
- Tax for symphony orchestra 78
- "Work of art" defined 46

ASSEMBLY

- State assembly, see that title

ASSEMBLY DISTRICTS

- Names on ballots, as bearing on arrangement of 175
- Printing ballots identical with those in each district 176

ASSESSMENT. See Special Assessment

ASSESSOR

- Assistants and employees, appointment and removal 34
- Bond, official 28
- Chief assistant or deputy 28
- Compensation 28, 151.1
- Consolidation of counties, continuation of assessor's office 189
- Election 5
- Elective officer, as 5, 28
- Recall 179
- Secretary 28
- Term of office 5

INDEX

SECTION

ASSISTANTS. See also Appointments
- Elective offices, in 34
  - —compensation, fixed by salary standardization provisions 34
- Particular officers, of, see the title of the office involved

ATTORNEYS
- Boroughs, power to employ counsel 195
- Bureau of delinquent revenue collection, of 26.1
- City attorney, see that title
- Civil service, excepted from 142
- Department of finance and records, attorney for 61
- District attorney, see that title
- Harbor commission, attorneys to perform legal work for 48 (i)
- Public administrator, appointment by 61
- Public defender, see that title
- Right to counsel,
  - —disciplinary hearings in police and fire departments 155
  - —superintendent of schools, representation at disciplinary proceeding 136
- Sheriff, attorney for 32

AUCTIONEERS
- Books, etc., examination of 24

AUDITOR
- Consolidation of counties, continuation of auditor's office on 189
- Controller as successor 64

AUDITORIUM. See Exposition Auditorium

AUDITS; AUDITING
- Borough funds, of 195
- Controller by, see Controller
- Health service funds 172.1
- Supervisors, by 68

AUTOMOBILE PARKING STATIONS
- Parks, in 41

AVENUES. See Streets
- Recreation commission, powers 41

BAIL
- Bonds, issuance and custody of 30
- Cash bail 30
- Warrant and bond office 30

BALLOTS
- Board of education members, application of §184 134
- Candidates' names on 175
  - —alphabetical order of 175
- Designations on 175
- Form of 184
- Health service membership election 172.1
- Mailing ballots to voters 176
- "No", arrangement on ballot 184
- Printing 176
  - —names of candidates on 175
- Rotation of candidates' names on 176
- Statements in 184
- Title of office on 175
- "Yes", arrangement on ballot 184

INDEX

SECTION

BANKS
Clearing house representative 84
Deposit of funds in 82
Retirement board, bank officer as member of 159

BASIS
Compensation, for fixing rate of 151
—application of rates fixed by collective bargaining 151.3
Personal services, of payments for 150
Retirement allowances and benefits
—Pacific Gas & Electric Company's employees, to 165.1
—reduction of, for engaging in employment 163
—teachers, for 165

BELIEF
Religious, see Religion

BENEFICIARIES
Firemen, payment of death benefits to beneficiaries of 169
Police officer, benefits on death of 166

BENEFITS
Allowance included in 165.2 (A), 168.1 (A)
Civilian defense workers, providing for 9
Compensation insurance 172
—payment 172
Death benefit, as included in term "benefit" 165.2 (A)
Defined 165.2 (A), 168.1 (A)
Firemen
—benefit tables 169, 171
—death of, on 169
Health service system, participation by dependents of members 172.1
Police officers, to
—compensation benefits to patrol officers 172
—compensation insurance 172
—family of, to 166
—continuation of payment 167
—policemen killed on duty 166
Retirement benefits 158
—approval by retirement board 168
—consolidation of counties, on 190
—control by retirement board 159
—firemen 169, 171
—Pacific Gas & Electric Company's employees, to 165.1
—part-time or temporary positions 165.2 (A)
—police department, to members of 166
—restriction of benefits to those provided 166
—teachers, to 165
—workmen's compensation as reducing 166
Workmen's compensation 172

BEQUESTS
Boroughs, to 195
California Palace of Legion of Honor 50
City and County, receiving 2
de Young Memorial Museum, to 51
Supervisors' authority 19 (d)

INDEX

SECTION

BIDS AND BIDDING. See Public Works and Improvements

BILLBOARDS
Borough powers as to 195

BOARD OF ADMINISTRATION
Retirement board as successor to 159

BOARD OF EDUCATION. See also Boards
Budget proposal, public hearing on 69
Members 134
—compensation 134
—nomination and confirmation or rejection 134
—officers, as 4
—recall 179
—terms 134
—vacancies on board, filling 134
Nomination and confirmation of members 49
Powers 135
—appointments, promotions, etc 135
—certificates of teachers, powers respecting 135
—compensation of teachers, etc., powers respecting 135
—employment of teachers, etc 135
—funds, regulating disbursement, etc 135
—statutory powers 135
Removal of member 11
Removing teachers 135
Salary schedule, adoption of 135
Superintendent of schools, see that title
Unified school district
—excess payment of employees, effect 135
—manner of paying certificated employees 135

BOARD OF ELECTION COMMISSIONERS
Abolition of 173
Registrar of voters as successor to 173

BOARD OF EQUALIZATION
Board of supervisors as 9
Clerk 12

BOARD OF FIRE PENSION FUND COMMISSIONERS
Retirement board as successor to 159

BOARD OF LAW LIBRARY TRUSTEES
Appointment, powers, etc 57
Officers, members as 4

BOARD OF PERMIT APPEALS
Appeal to 39
—right to appeal denial of license or permit 24
—zoning administrator's ruling, from 117.3
Appointees and compensation 39

BOARD OF PUBLIC WORKS
Department of public works as successor 106

SECTION

BOARD OF SUPERVISORS. See also Boards
- Actions
  - —directing city attorney to represent officer defendants.... 26
  - —directing commencement of.... 26
- Administrative code, enactment and publication.... 23
- Appointments .... 19 (h)
- Appropriations, see that title
- Approval
  - —Academy of Sciences, proposed buildings, etc., of.... 52
  - —boroughs, establishment of or changes in.... 194
  - —compromise of actions for harbor commission.... 48 (i)
  - —expenditures from salary survey fund.... 151
- Audit of controller's books, etc., ordering.... 68
- Bond elections, calling.... 174
- Borrowing money 81
- Boroughs, reports to supervisors respecting.... 194
- Budget, see that title
- Calendar of scheduled business, publication.... 10
- Canvass of vote.... 9
- Chief administrative officer, voice without vote.... 60
- Clerk 12
- Closing or narrowing streets by boroughs, approval.... 195
- Committees
  - —authority to establish.... 19 (c)
  - —duties 13
  - —noninterference with administrative affairs.... 22
- Compensation of members.... 10
  - —salary standardization, excepted from.... 151.1
- Compromise and dismissal of actions
  - —approval, actions on behalf of harbor commission.... 48 (i)
  - —ordinance on city attorney's recommendation.... 26
- Continuous service, duty to define.... 161
- Contracts
  - —harbor matters, contract with state respecting.... 48.1
  - —leases of harbor commission, approval.... 48 (e)
- Controller, approval of appointment.... 63
- Emergencies
  - —approving reduction of appropriation or taxes, etc.... 70.1 (6)
  - —declaration of 70.1 (1)
  - —salary deductions, ordering during.... 70.1
- Executive, see also Departments (Heads of departments)
  - —power to appoint.... 19 (h)
- Firemen, prescribing benefits on death of.... 169
- Funds, see also Funds
  - —chief of police contingent fund, providing for.... 35.8
- Harbor commission fee schedule, duties respecting.... 48 (d)
- Health service board positions, furnishing supervisors list.... 172.1
- Initiative
  - —measures within supervisors' power, as to.... 179
  - —printed arguments by supervisors.... 183
- Journal of proceedings
  - —chief administrative officer, charges and reply.... 59
  - —clerk to keep.... 12
  - —keeping and publication.... 10

SECTION

BOARD OF SUPERVISORS. See also Boards—(Continued)
—notice of removal of mayor's nominee or appointee, printing of ... 11
—record of meeting, keeping, copy to mayor ... 19
—removal of officers, printing notice and reply ... 11
—chief administrative officer, against ... 59
—vote on measures, recording ... 13
Leases of harbor commission, approval ... 48 (e)
Master plan, certifying copy of resolution adopting or amending ... 116
Mayor, sitting without vote in board ... 25
Meetings ... 10
—attendance of absent members, compelling ... 19
—ex-mayor to have seat without vote ... 25
—majority or other vote, meaning of term ... 19
—mayor to have seat but no vote ... 25
—open to public ... 19 (f)
—penalty for nonattendance ... 19
—quorum ... 19
—record, keeping, copy to mayor ... 19
—regular, authority to hold ... 19 (f)
—special ... 19 (g)
—notice of ... 10
—where held ... 10
Members
—bonds, official ... 10
—compensation ... 10
—exemption from salary standardization ... 151.1
—election ... 5
—elective officers, as ... 5
—eligibility for appointive position ... 5
—noninterference with administrative affairs ... 22
—number ... 10
—term of office ... 5
Misconduct, official
—administrative affairs, wrongful interference with ... 22
—failure to remove certain appointees ... 11
Night university, authority to establish ... 9
Ordinances, see that title
Personnel to handle business, etc ... 12
Polling places, providing for publication of ... 174
Positions, creation of ... 143
Powers ... 9
—board of equalization, as ... 9
—bonds, official, requiring ... 19 (i)
—canvass of vote ... 9
—civilian defense workers, providing benefits for ... 9
—departments, creation and abolition ... 9
—employment, as to ... 9
—gifts, devises or bequests, authority to receive and administer ... 19 (d)
—increasing powers of officers, boards and commissions ... 9
—inquiry and hearing ... 21
—night university, authority to establish ... 9
—noninterference in administrative affairs ... 22
—reports, requiring ... 19 (e), 21

SECTION
BOARD OF SUPERVISORS. See also Boards—(Continued)
—rules and regulations, prescribing 19 (a)
—secretary, appointment 19 (h)
—subpoena, issuance 21
—superintendent or executive, appointment 19 (h)
—vesting in board 9
Precincts, providing for publication of 174
President
—authority to appoint 19 (b)
—election 10
—member of retirement board, as 159
—powers of 10
Prohibited practices of 222
Proposing ordinances to be submitted to electors 179
Quorum 19
Recall, printed arguments by supervisors 183
Reconsideration of ordinances 14
—after voters' protest 179
Referendum, printed arguments by supervisors 183
Removal of officers 11
—chief administrative officer 59
—controller 63
Resolutions, see Ordinances and Resolutions
Reports to, judge of municipal court, printing for distribution 54
Retirement system
—conditions for payment of death benefits 166
—determining what positions included in 165
—exclusion from benefits of 158.1
—fixing conditions under which contributions refunded 166
—prescribing conditions on exercise of election 166
Salary standardization, exempt from 151.1
Schedules of compensation, adoption and amendment of 151
Secretary, appointment 19 (h)
Special election fund, appropriations for 181
Spur track permits, referring and granting requests 114
Street railway, abandonment of lines following unification 132.1
Street traffic advisory board, member of 61
Tax anticipation notes, borrowing on 81
Taxation, see that title
Unemployment emergency, declaring existence of 149
Utilities, leasing or selling 123
Utility rates and charges, approval or rejection of changes in 130
—Market Street Railway, exemption 119.1 (3)
Voting
—on changes in retirement benefits 158
—ordinances, on 13
—retirement benefits 165.2 (A)
Welfare department, prescribing duties and functions 61.1 (8)
Zoning matters, see Zoning

BOARD OF TRUSTEES OF POLICE RELIEF
Retirement board as successor to 159

BOARDS
Accounts and financial reports, controller's power respecting 64
Advice by city attorney 26

SECTION

BOARDS—(Continued)
Appeal and advisory board, see Bureau of Fire Prevention
Appointing officer, as including boards.................. 143
Appointment by mayor generally.................. 25
Board of education, see that title
Borough advisory board.................. 204
Borough library board.................. 203
California Palace of Legion of Honor, see that title
Charter as affecting existing powers and duties.................. 2
Committees, authority to establish..................19 (b)
Compensation, see particular board
—exemption from standardization.................. 151.1
de Young Memorial Museum, trustees of, see M. H. de Young Memorial Museum
Education, board of, see Board of Education
Election commissioners, abolishment of.................. 173
Executive, see also Departments (Heads of departments)
—appointment ....19 (h)
—officer, as 4
—powers, see also Departments.................. 20
Health advisory board, see that title
Health service board.................. 172.1
Initiative as to measures within powers of boards.................. 179
Law library, board of trustees, see Board of Law Library Trustees
Meetings
—attendance of absent members, compelling.................. 19
—majority or other vote, meaning of term.................. 19
—open to public..................19 (f)
—penalty for nonattendance.................. 19
—quorum 19
—record, keeping, copy to mayor.................. 19
—regular, authority to hold.................. 19 (f)
—special ....19 (g)
Officers, board members as.................. 4
Powers and duties
—administrative affairs, how dealt with.................. 22
—bond, official, requiring.................. 19 (i)
—charter, powers under superseded, continued.................. 2
—combining or transferring functions or duties.................. 20
—committees, establishment ....19 (b)
—gifts, devises or bequests, authority to receive and administer ....19 (d)
—increasing, by supervisors.................. 9
—inquiry and hearing.................. 21
—president, appointment ....19 (b)
—reports, requiring ....19 (e), 21
—rules and regulations, prescribing..................19 (a)
—publication or posting, ordinance for..................19 (a)
—secretary, appointment ....19 (h)
—subpoena, issuance 21
—superintendent or executive, appointment..................19 (h)
—trusts, authority to administer..................19 (d)
Precinct boards of election officers.................. 177
President, appointment ....19 (b)

SECTION

BOARDS—(Continued)
- Probation boards, see that title
- Quorum 19
- Railroad commission, accounts conforming to requirements of 64
- Recall, members subject to 179
- Records of proceedings, keeping .... 19 (i)
- Residence of board members 7
- Retirement board, see that title
- Retirement system, exclusion of board members 158, 158.1
- Retired officers or employees as members of 163
- Schedule of proposed capital improvement projects 69.1
- Street traffic advisory board, see that title
- Supervisors, see Board of Supervisors
- Trustee, authority to act as .... 19 (d)
- War memorial, board of trustees of 44

BONDED INDEBTEDNESS
- Boroughs, of 208
- Debt limit 104
- Foreign trade zone, indebtedness for, as exclusive of limit 121
- General laws, application 101
- Harbor, assumption of state indebtedness 47
- Market Street Railway purchase, bonds to fund or refinance unpaid balance 119.2
- Public improvements, bonds for 103, 110
  - —proceeds for revolving fund 103, 110
  - —sale of bonds 110
- Revolving fund, bonds for creation of 103
- Tax for 78, 81
- Utility, bonds for acquisition, construction or completion 104
  - —interest on bonds during construction or extension, how paid 102

BOND FUND. See Bonds

BOND OFFICE. See Warrant and Bond Office

BONDS
- Appeal bonds, custody of 30
- Approval as to form by city attorney 26
- Bail bonds, custody of 30
- Bidder's, of 97
- Boroughs, of 195, 208
- Contractors' 97, 99
- Elections for bond issues 174
- Emergency measure, ordinance not to be passed as 16
- Fund, bond
  - —charges against, retirement system contributions 160
  - —transfer, limitation on 77
- Official, see Officers
- Particular boards, officers, etc., see title of board of office
- Taxes 78, 81

BOOKS
- Examination 24
- Purchase 88

BOROUGH COMMISSION. See Boroughs

INDEX

SECTION

BOROUGH COUNCIL. See Boroughs

BOROUGHS

Advertising	210
Bonded indebtedness	208
Boundaries, change in	194
Clerk	201
Commission	194
—appointments to	194
—duties of	194
—members of	194
—reports to supervisors	194
Consolidation of	194
Controller	197, 200
Council	
—appointments by	194
—duties of	198
—meetings of	198
—members of	197
—powers of	195
—prescribing president's duties	199
Debts of	194
Disestablishment of	194
Elections	214
Establishment on consolidation	193
Fiscal procedure	206
General legislation for	218
Initiative	215
Legislation	205
Library board	203
Managers of	197, 204
Municipal court sessions on consolidation of counties	191
New boroughs	194
Officers of	197
Pensions	213
Planning commission	202
Powers	195
—transfer to City and County	196
President	198
Property of	194
Recall	215
Records, inspection of	198
Referendum	215
Special assessments	209
Taxes	206
Tax subventions	207

BORROWING MONEY. See also Bonded Indebtedness, Bonds, Fiscal Matters, Market Street Railway Unification

Tax anticipation notes, issuance and payment	81

BOUNDARIES

Boroughs, of, change in	194
Plants outside boundaries, acquisition, etc.	2
Public utility service outside City and County	130
Recommendations respecting outside adjacent areas	116
Where set forth	1

INDEX

SECTION

BRANCH OFFICES
  Consolidation of counties, on 189
    —recording title instruments on 192

BRIBERY
  Borough manager, of 204
  Prohibition of 222

BRIDGES
  Art commission, authority respecting 46
  Borough powers as to 195
  Law governing construction 107

BUDGET
  Board of education, public hearing on proposals 69
  Board of supervisors
    —hearing 72
    —increase, decrease or rejection of items 72
    —time for adoption 72
  Borough 206
    —preparation by manager 204
  Chief administrative officer, duties of 69
    —publicity and advertising expenditures, budgeting 60
  Chief of police contingent fund 35.8
  Controller
    —checking estimates 69
    —consolidating and transmitting estimates 69
    —furnishing budget estimate blanks 69
    —statements of receipts and requirements for fixed charges 69
    —summary and recapitulation of estimates, transmission to mayor 69
  Departmental revolving funds, establishing in approving budget, etc. 75
  Employment classification title and numbers, to be used in 141
  Estimates
    —filing 69
    —form 70
    —information to be supplied 70
    —net salary in case of emergency salary deductions 70.1 (3)
    —supplemental budget estimate 80
    —transmission to supervisors 72
  Executive budget, annual, mayor's review and submission 25
  Fiscal year 69
  Harbors, facilities and equipment, application of budgetary procedure 48.1
  Hearing before supervisors 72
  Hearing of mayor
    —addition to requested appropriation for public improvement or capital expenditure 69
      —referral to planning department as prerequisite 69
  Mayor
    —budget message 72
    —executive budget, annual, review and submission 25
    —hearings on estimates 69
    —increase, decrease or rejection of items in estimates 69
    —tax anticipation notes, provision for 81

SECTION

BUDGET—(Continued)
—transmitting consolidated estimates to supervisors 72
—accompanying draft of appropriation ordinance 72
M. H. de Young Memorial Museum, provision for 51
Noting part-time employees on 161
Printed copies of mayor's budget message and proposed budget 72
Proposed budget
—hearing on proposed budget and appropriation ordinance
—capital expenditure appropriations, insertion or increase 72
—referral to planning department as prerequisite 72
—improvement appropriation, insertion or increase 72
—referral to planning department as prerequisite 72
—utilities, increase of estimated expenditure prohibited 72
—publication 72
—transmission to supervisors 72
Referendum of budget ordinances prohibited 179
Salaries and compensation, fixing subject to budget 151
Salary survey fund, reimbursement of 151
Special election fund, appropriation for 181
Steinhart Aquarium, provision for 52
Tax anticipation notes, provision to meet interest 81
Utilities
—filing separate estimate for each utility 69
—increase of estimate of expenditures, prohibition against 69
—public hearing on budget proposal 69

BUILDINGS
Abatement proceedings, bureau of fire prevention, prosecution by 38
Academy of Sciences, buildings under direction of 52
Art commission, authority respecting 46
Borough powers as to 195
Bureau of fire prevention, duties 38
Certificate of completion or occupancy, nonissuance pending appeal to appeal and advisory board 38
Contract for construction, etc 95
Inspection 38
M. H. de Young Memorial Museum, buildings for 51
Nuisances, buildings as 38
Parks, buildings in 41
Permit for construction, etc.
—appeal to appeal and advisory board 38
—board of permit appeals, appeal to 39
—duties of bureau of fire prevention 38
Planning department, referral of ordinances as to 116.1
—zoning ordinances 117
Playgrounds, recreation centers, etc., buildings in 42
Set-back lines 117, 117.1
Tax for 78

BUREAU OF CRIMINAL INFORMATION
Police department, in 35.4

BUREAU OF DELINQUENT REVENUE COLLECTION
Attorney 26.1

INDEX

SECTION

BUREAU OF ENGINEERING
- Creation 122

BUREAU OF FIRE PREVENTION AND PUBLIC SAFETY
- Abatement proceedings, prosecuting 38
- Appeal and advisory board, creation and appeal to 38
- Establishment 38
- Duties 38
- Personnel 38

BUREAU OF INSPECTORS
- Detailing members of police department to 35.3

BUREAU OF PERSONNEL
- Police department, in 35.4

BUREAU OF SPECIAL SERVICES
- Police department, in 35.4

BUREAU OF SUPPLIES
- Purchasing department, inclusion in 61

BUREAUS
- Harbor commission, bureaus established by .... 48 (g)
- Head of bureau
  - —appointments
    - —appointing officer under civil service, designation as 20
    - —noncivil service and temporary 20
  - —civil service, application to 62
  - —materials and supplies, duties respecting 20
  - —removal of noncivil service and temporary appointees 20
  - —requisitions for supplies, etc., issuance 20
- Retirement system, bureaus included in 165
- Supplies, bureau of, see that title
- Welfare, establishment by director 61.1 (6)

BUSES. See Transportation

BUSINESS
- Examining books of licensed businesses 24
- Exemption from license tax 24
- Office hours 220
- Permit, refusal or revocation by chief of police 35.6
- Prohibited practices of officers and employees 222
- Retirement board, of, rules and regulations as to 172.1

CABLE CARS
- Maintenance and operation of existing system 119.3

CALIFORNIA ACADEMY OF SCIENCES
- Buildings and improvements under direction of 52
  - —auditorium (proposed)
  - —Natural History Museum
  - —planetarium, Alexander F. Morrison (proposed)
  - —Simson African Hall
  - —Steinhart Aquarium
- Erection of buildings and additions 52
- Employees 52
- Fees, admission, charging of 52
- Insurance furnished by 52
- Statement of expenses and income, filing 52
- Steinhart Aquarium, see that title

INDEX

SECTION

CALIFORNIA PALACE OF LEGION OF HONOR
- Appointment of director, curators, etc. 50
- Board of trustees 50
  - —duties 50
- Condition of donation, administration under 50
- Civil service 50
- Insuring loan exhibits 50
- Name 50
- Secretary, appointment, duties 50

CALLING ELECTIONS. See Special Elections

CAMPAIGNS
- Political, prohibition against engaging in 157

CANCELLATION
- Civil service credits, of 145

CANDIDATES FOR OFFICE
- Ballots
  - —option of candidate as to designations on 175
  - —printing names of candidates on 175
- Boroughs offices, for 197
- Declaration of candidacy 175
  - —fees on filing 175
- Failure to qualify when elected 178
  - —vacancy in office on failure to qualify 6
- Forfeiture of appointable office or employment on becoming candidate 7
- Municipal offices, special elections for 174
- Names to be on ballots 175
- Qualifications 7
- Rotation of names on ballots 176
- Sponsors of 175
  - —certifying to candidate's qualifications 175
- Statement of qualifications 175
- Voters to be furnished statements as to qualifications 176
- Withdrawal of candidacy 175

CANVASS
- General state laws applicable to 174, 178
- Health service board, ballots for members of 172.1
- Municipal elections 174
- Supervisors, canvass by 9
- Voters, of 178

CAPACITY
- Civil service, of applicants for positions in 145

CAPTAINS
- Fire department, in, see that title
- Police department, in, see that title

CAPTIONS
- Charter captions 225

CARE
- Medical care, see that title

CASES. See Actions and Proceedings

INDEX

SECTION

CAUSES
Limited tenure appointments, for terminating ... 145.1
Suspension or dismissal
—civil service employees ... 154
—of members of police or fire departments ... 155

CAUSES OF ACTION
Charter not to affect existing causes ... 2

CERTIFICATES; CERTIFICATION
Appointment, for ... 148
—emergency appointment ... 149
Controller
—amounts payable to health fund, certification to ... 173.1
—contracts or purchase orders, certifying to ... 72, 86
—unencumbered balance of ... 85, 86, 88, 88.1
Election, certificate of ... 178
Eligibles, of, to other department ... 148
Initiative petition, certification of ... 180
Official count of balloting ... 9
Ordinances
—certification by clerk ... 15
—voters' petition protesting, of ... 179
Recall petition, certification of ... 180
Referendum petition, certification of ... 180
Registrar, by, to signing of declaration of candidacy ... 175
Secretary of civil service commission, by, of eligibles and payrolls ... 141
Sponsors of candidates ... 175
—form of ... 175
—preservation by registrar ... 175
—registrar's refusal and return of certificate ... 175
—right to file second certificate ... 175
Streets, engineer's certificate respecting ... 108

CESSATION
Disability
—reinstatement of firemen ... 169
—reinstatement of policemen on ... 166

CHARGES
Civil service examinations, no charge to applicants ... 145
Inspection of civil service examination papers, on ... 147.1
Officers or employees, against ... 154
—chief administrative officer, against ... 59
—civil service, persons under ... 154
—superintendent of schools, against ... 136

CHARTER
Amendment of ... 2, 179, 183, 185
—conflicting amendments ... 185
—furnishing voters with arguments on ... 183
—initiative or referendum, by ... 179
—presenting printed arguments opposing ... 183
Captions and headings ... 225
Causes of action, effect on ... 2
Civil service rights under superseded charter ... 142
Continuing rights, titles and liabilities under former charter ... 2

SECTION

CHARTER—(Continued)
Contract obligations, effect on 2
Defined 165.2 (A), 168.1 (A)
Effect on existing rights, titles, obligations, etc 2
Elections, substantial compliance with charter provisions 186
Former offices and employees continued under new charter 2
—law library board of trustees 57
—fire department officers and employees, continuance of positions 36
—probation boards or committees 58
Initiative, conformity to charter 186
Invalidity in part 226
Liabilities, effect on 2
Ordinances, effect on 2
Property rights, effect on 2
Publication, including initiative ordinances and digests of cases 17
Recall, compliance with charter 186
Referendum, compliance with charter 186
Resolutions, effect on 2
Specification of powers not exclusive 2
Trusts, effect on 2

CHIEF ADMINISTRATIVE OFFICER
Academy of Sciences, appointing officer for employees 52
Advertising expenditures, budgeting and control of 60
—director of finance and records 61
—director of public health 61
—director of public works 61, 106
—health advisory board 61
—purchaser of supplies 61
Appointment of 59
Appropriation items for bond interest, etc., expenditure of 72
Budget, duties respecting 69
Construction on unimproved or unaccepted street, emergency 95
Contracts, approving 95
Departments under officer 61
—coroner's office, see that title
—county welfare, see that title
—electricity, see Department of Electricity
—finance and records, see Department of Finance and Records
—offices under
—county clerk, see that title
—public administrator, see that title
—recorder, see that title
—registrar of voters, see that title
—tax collector, see that title
—health advisory board, see that title
—horticultural inspection, see that title
—public health, see Department of Public Health
—public works, see Department of Public Works
—purchasing, see that title
—real estate, see that title
—street traffic advisory board, see that title
—weights and measures, see Department of Weight and Measures

CHIEF ADMINISTRATIVE OFFICER—(Continued)
- Deputy, planning commission, designation as ex-officio member 115
- Designating officer or employee to exercise powers 60
- Noninterference by supervisors, etc 22
- Officer, as 4
- Planning commission, ex-officio membership 115
- Powers and duties 60
  - —combining or transferring functions or duties 20
    - —recorder performing duties of registrar of voters 60
  - —department head, powers as 20
  - —departments, recommending creation or abolition 9
  - —inquiry and hearing 21
  - —reports, requiring 21
  - —subpoena, issuance 21
- Publicity expenditures, budgeting and control of 60
- Purchase orders and contracts for supplies, when signature required 88
- Qualifications 59
- Recall 179
- Recommendations by 60
  - —departments, creation or abolition of 9
  - —noninterference by supervisors, etc 22
  - —sale of public improvement bonds 110
- Recorder, designation to act as registrar of voters 60
- Removal 59
  - —limitation on 11
- Rules and regulations, prescribing 60
- Street traffic advisory board, member of 61
- Supervision of administrative departments 60
- Supervisors, report on and discussion of matters before 60
- Suspension 59
- Traffic, coordinating functions of departments controlling 60

CHILDREN
- Firemen, of, pensions to 169, 170
- Policemen, of, pension to 166
  - —continuation of payment 167

CHOICE
- Medical practitioners under health service 172.1

CHRISTIAN SCIENCE
- Health service system, exemption from 172.1

CIRCULARS
- Civil service examinations, of 145
  - —specifying ranks from which promotions to be made 146

CITATION
- By registrar, to signers of initiative, recall or referendum petition 180

CITY
- Defined 188
- Powers appropriate to, possession of 2

INDEX

SECTION

CITY AND COUNTY
- Borough powers, transfer of 196
- Charter, see that title
- Consolidation with San Mateo county 187
- Contributions, firemen's pension fund 169
- Defined 188
- Elections, see that title
- Funds, see that title
  - —health service claims against 172.1
- Health service system, benefits to dependents not chargeable to City and County 172.1
- Hospitals, medical care to members of health service system 172.1
- Police and fire services outside of, as covered by retirement system 162
- Powers appropriate to, possession of 2
- Retirement fund, contributions to 168.1
- Retirement system
  - —compensation insurance payments 172
  - —contributions to 166
- Voting precincts, establishment of 173

CITY ATTORNEY
- Advice to officers, boards or commissions 26
- Assistant attorney
  - —appointment and removal 26, 34
  - —civil service provisions, exemption from 34.1
  - —qualifications 34
  - —retirement board, appointment to 159
- Ballots, preparation of statements for 184
- Bonds
- Approval as to form by city attorney 26
  - —official bond 26
- Bureau of delinquent revenue collection, transfer of duties respecting 26.1
- Commencing action by City and County 26
- Compensation 26, 151.1
- Compromising or settling litigation 26
  - —harbor commission, acting on behalf of 48 (i)
- Contracts, preparation 26
- Dismissal of action 26
- Duties 26
- Election 5
- Elective officer, as 5, 26
- Employees in office
  - —appointment and removal 26, 34
  - —civil service provisions, application of 34.1
- Harbor commission, legal adviser to 48 (i)
- Ordinances, preparation or approval as to form 26
- Public utilities commission
  - —authority respecting litigation affecting 126
  - —detailing attorneys to commission 126
- Qualifications 26
- Records and files 26
- Referendum, of ordinances authorizing compromise of litigation 179
- Retirement board, as member of 159

SECTION

CITY ATTORNEY—(Continued)
Settling or dismissing litigation 26
—harbor commission, litigation on behalf of 48 (i)
Term of office 5
Title to realty acquired by City and County, approval 26

CITY ENGINEER
Appointment 106
Powers 106
Recommending laying of mains, etc. 112
Streets, certificate respecting 108

CITY HALL
Meetings of supervisors held in 10

CITY PLANNING
Appeal from rulings 117
Building set-back lines
—establishment and change 117
—existing lines continued after charter 116
Capital improvement program
—referral and reports 69.1
—§69.1 as governing 116
Commission, city planning
—appointment, terms, compensation 115
—approval of permit or license 24
—chairman, street traffic advisory board, member of 61
—compensation 115
—continuity of existence unaffected 115
—department, part of planning 115
—director, appointment of 116
—duties 116, 118
—master plan, adoption 116
—membership 115
—powers and duties 116
—recorded action, continuance in force 115
—secretary, appointment 116
—subdivision plats, report on 118
—terms of office 115
—vacancies, filling 115
Department
—advice affecting improvement and development 116
—capital improvement program, §69.1 as governing 116
—referral and reports 69.1
—establishment 115
—information, asking and giving 116
—powers 116
—recommendations 116
—reports, see Referral and Reports, infra
Director
—appointment 116
—department, constituent of 115
—functions and duties 116
—qualifications 116
—residence qualifications 116
Employees, department, part of 115
License, approval by planning commission 24

SECTION

CITY PLANNING—(Continued)
Master plan 116
—amendment 116
—authority of department when preparing 116
—hearing on amendment 116
—notice of hearing 116
—distributing copies 116
—publication of 116
—publicity 116
—recording action on documents 116
—resolution adopting or amending 116
—scope 116
—what constitutes 116
Ordinances and resolutions, referral of and report on 116.1
—zoning ordinances 117
Recommendations of department 116
Referral and report
—capital expenditure appropriation, prerequisite to 72
—capital improvement projects, on 69.1
—effectuation of master plan 116
—mayor referring addition to requested appropriation for public improvement or capital expenditure 69
—ordinances or resolutions, report on certain 116.1
—public improvement appropriation, prerequisite to 72
—supplemental appropriations for improvement project 69.1
Schedule of capital improvement projects, submission to department 69.1
Secretary of commission, appointment 116
Zoning, see that title

CITY PLANNING COMMISSION. See City Planning

CIVIC AUDITORIUM. See Exposition Auditorium

CIVILIAN DEFENSE
Benefits to workers, providing 9

CIVIL SERVICE
Academy of Sciences, employees in buildings under control of 52
Age of eligibility 145
Airport, employees at 125
Appointing officer
—Academy of Sciences, for employees in buildings under 52
—board or commission 143
—clerk of board of supervisors 12
—creation of positions, duties respecting 143
—head of department as 20
—head of utility, institution, bureau of subdivision as 20
—probation officer 58
Appointive, erstwhile elective, officers, application to 62
Appointments 140
—merit, fitness and other considerations 140, 141
Attorneys
—bureau of delinquent revenue collection, of 26.1
—exemption from classification 142
Borough employees 195
Bureau heads under utilities commission, exempt from civil service 124

SECTION

CIVIL SERVICE—(Continued)
California Palace of Legion of Honor assistants and employees ... 50
City attorney's office, application to positions in ... 34.1
Classification ... 141
—leave of absence on duties unrelated to ... 153
—reclassification ... 141
—servicemen, continuation in classification ... 172.1
—transfer of disabled employees to other positions ... 156
Clerk of board of supervisors ... 12
Clerk-stenographer in treasurer's office ... 142
Commission, see Civil Service Commission
Considerations controlling appointments ... 140
Consolidation of counties, on ... 189
Credits ... 145
—additional credits ... 145
Director of public welfare exempt from provisions ... 61.1 (6)
Dismissals ... 154
Eligible lists ... 145
—automatic expiration of ... 145
—removal of names from ... 145
Eligibles not to engage in politics ... 157
Examinations, see Civil Service Examinations
Exemptions or exclusions ... 142
—department heads under utilities commission ... 124
—director of public welfare ... 61.1 (6)
—during emergency periods ... 149
—exclusion of provisions relating to examination, appointment and removal ... 221
—medical director of health service ... 172.1
—provisions excluded ... 221
—secretary of board or commission ... 19 (h)
—secretary of planning commission ... 116
—specific exemption, necessity for ... 62
—superintendent or executive ... 19 (h)
Fire department members ... 145
—eligible age ... 145
—physical qualifications ... 145
Fraternal affiliations, consideration of excluded ... 140, 145
Harbor commission, employees of ... 48.1
Heads of departments, bureaus, etc ... 62
—public utilities commission, department heads under ... 124
Health service board, appointments by president of ... 172.1
Health service system employees ... 172.1
Inmate help as subject to ... 142
Inspectors and assistant inspectors in police department taking examinations ... 35.3
Institutional help ... 142
Laborers, qualifications of ... 145
Leaves of absence ... 153, 153.1
Library department, application to employees in ... 43
Limited tenure appointments ... 145.1
Mechanics ... 145
Merit and fitness, consideration of ... 140
M. H. de Young Memorial Museum, employees in ... 51

SECTION

CIVIL SERVICE—(Continued)
Military service as affecting employees of health service system 172.1
Municipal court, appointees of clerk 55
Non-civil service appointments, when authorized 145.1
Nurses 142
Park department, application to employees in 40
Partisan considerations, excluded 140
Physical qualifications 145
  —firemen 145
  —laborers 145
  —mechanics 145
  —police 145
Physicians and surgeons, exception from classification 142
Police department members 145
  —eligible age 145
  —physical qualifications 145
Political considerations, excluded 140, 145, 157
Positions 142
  —creation of 143
Probation officers, employees of 58
Professional men 142
Promotions 146
Public defender's office, application to positions in 34.1
Public service, appointments for good of 140
Public utility work, employees in 125
  —leased utilities, employees in operative service on 125.1
  —newly acquired utilities, employees on 125.1
Public welfare department
  —director as exempt 61.1 (6)
  —employees within provisions 61.1 (7)
Qualifications for positions in 145
  —firemen 145
  —laborers 145
  —mechanics 145
  —policemen 145
  —veterans 145
Rating of applicants 145
Registrar of voters, appointments by, as subject to civil service 173
Religion, exclusion of 140, 145
Rules 141
Salvage corps, subject to civil service 38.1
School employees 135
Social considerations, excluded 140
Steinhart Aquarium, employees in 52
Superseded charter, rights under 142
Suspensions 154
Tax for 78
Tests of merit and fitness 140, 141, 145
Treasurer's office, continuation of positions in 142.1
Veterans 145
  —credits to 145

INDEX

SECTION

CIVIL SERVICE CLASSIFICATION. See Civil Service

CIVIL SERVICE COMMISSION

Adoption of examination questions 140
Appearance before 140
Appointments
  —commission, by 140, 141
  —commissioners, of 49, 140
  —good of public service, for 140
Approval of
  —limited tenure appointments, to termination of 145.1
  —recording of part-time employees 151
Certification of eligibles 148
Charges against 140
Classification and reclassification of employments by 141
  —use of class titles and numbers 141
Declaration on taking office 140
Discretion of, compensation to discharged or suspended employees 154
Duties of 141
Eligible lists, power of commission to correct 147.1
Employment and personnel department, as 141
Establishment of 140
Examinations by, see Civil Service Examinations
Executive officer of 140
Files and records of, ordinances creating or abolishing positions 143
Funds, salary survey fund 151
Inspection service, duty to establish 152
Legal proceedings by 141
  —powers as to 141
  —meetings of 140
  —regular open to public 140
  —special meetings not open to public 140
Members of 140
  —appointment by mayor 49, 140
  —compensation 140
  —number 140
  —oath 140
  —removal 11, 140
Notice to
  —creation or abolition of positions, of 143
  —record of 143
  —suspension or dismissal proceedings, of 154
Oath of 140
Orders, probationary employees, as to 148
Powers of 140, 141
Promotions, duties as to 146
Records and files of
  —data for rating compensation 151
  —service records 152
Removal or suspension of 140
Rules of 141
  —emergency appointments, as to 149
  —layoffs, as to 154
  —leaves of absence, as to 153
  —limited tenure appointments, as to 145.1

CIVIL SERVICE COMMISSION—(Continued)
—promotional examinations 146.1
—transfer of disabled employees, as to 156
Salary of 140
Schedules of compensation, fixing and submitting 151
Secretary of, see Secretaries
Standardization of compensation. see Salary Standardization
Successors 140

CIVIL SERVICE EXAMINATIONS
Advertising 144
Age of applicants 145
Application for 144
Charges for, none 145
Collusion in respect to 147
Competitive character of 145
Conditions for, fixing 144
Consolidation of counties, examination of incumbents 189
Control by civil service commission 145
Credits 145
—on promotive examinations 146
—veterans, to 145
Eligibles 145
—commission to prepare list of 145
Emergency appointments, for 149
Examination papers, right to inspect or copy 147.1
Examiners 145
Exemption during emergency periods 149
Fire department, for promotions in 146
Fraternal affiliations not to be considered 140, 145
Fraud in 147
Grades, right to inspect 147.1
Incumbents under superseded charter, of 142
Interference with 147
Laborers, of 145
Limited tenure appointments, for 145.1
Marks on 145
—right to inspect 147.1
Mechanics, rating of 145
Military service, preventing completion of 153
Notice of, posting notice of promotion examinations 144
One applicant, authorization of examination for 145
Oral or written 145
Papers, inspection of 147.1
Place of holding 144
Police department 35.3, 35.4
—for promotion in 146
—for service in 146
Political opinions, no questions as to 145
Power of secretary of commission to conduct 141
Promotion examinations 146
—returned servicemen 146.1
Publication of notice of 144
Questions, preparation of 140
—exclusion of religion or politics 145
Rating 145
—laborers 145

SECTION

CIVIL SERVICE EXAMINATIONS—(Continued)
- —mechanics 145
- —veterans 145
- —widows of veterans 145
- Religious opinions, reference to, prohibited 145
- Returns of 145
- Rules governing 141
- Scope of 145
  - —promotive examinations 146
- Tests 145
- Time to hold 144
- Veterans 145
  - —credits to 145
- When examination deemed competitive 145
- Widows of veterans, of 145

CLAIMS
- Audit by controller 85
- Compensation or salary of emergency appointees, for 149
- Damage claims, requisites, time for filing 87
- Illegal claims, duties of controller respecting 85
- Incorrect claims, duty of controller respecting 85
- Investigation by controller 85
- Registration where insufficient balance for payment 85
- Restrictions on drawing money or incurring obligation 85
- Warrants, see that title

CLASSIFICATION
- Civil service positions 141
  - —new or additional positions 143
- Members of health service board, of, for service 172.1

CLASSIFIED EMPLOYMENTS
- Schedule of compensation, employments included in 151

CLASSIFIED SERVICE
- New positions, classification of 143

CLEARING HOUSE REPRESENTATIVE
- Designation 84

CLERKS
- Board of supervisors, of
  - —appointment 12
  - —civil service, subject to 12
  - —duties 12
  - —index to ordinances 12
  - —recording ordinances 15
    - —filing position ordinances 143
- Borough clerk 201
- Clerk-stenographer in treasurer's office, continuance in employment 142.1
- County clerk, see that title
- Municipal court, clerk of, see Municipal Court
- Property clerk in police department 35.4

COLD STORAGE PLANTS
- Regulation where used in connection with harbor 48 (b)

COLLUSION
- Bidding and contracts, collusion in 100
- Civil service examinations, in respect to 147

INDEX

SECTION

COMMISSIONS AND COMMISSIONERS
Advice by city attorney 26
Appointing officer, as including commissions 143
Art commission 45
Borough, see Boroughs
Charter as affecting existing powers and duties 2
City planning commission, see City Planning
Civil service commission, see that title
Compensation, see particular commission
—exemption from standardization 151.1
Election commissioners, termination of 173
Executive, see also Departments (Heads of departments)
Fire commission, see Fire Department
Harbor commission, see that title
Horticultural commissioner, see that title
Initiative as to measures within powers of commissions 179
Library commission 43
Meetings
—attendance of absent members, compelling 19
—majority or other vote, meaning of term 19
—notice, special meeting 19 (g)
—open to public 19 (f)
—penalty for nonattendance 19
—quorum 19
—record, keeping, copy to mayor 19 (i)
—regular 19 (f)
—special 19 (g)
Officers, commissioners as 4
Park commission, see Park Department
Police commission, see Police Department
Powers and duties
—administrative affairs, how dealt with 22
—combining or transferring functions or duties 20
—harbor commission, application of §19 to 48
—increasing by supervisors 9
—inquiry and hearing 21
—official bonds, requiring 19 (i)
—president, appointment 19 (b)
—reports, requiring 21
—rules and regulations, prescribing 19 (a)
—publication or posting, ordinance for 19 (a)
—subpoena, issuance 21
President, appointment 19(b)
Public utilities commission, see that title
Quorum 19
Recall, members subject to 179
Recreation commission 42
Record of proceedings, keeping 19 (i)
Residence of commissioners 7
Retired officers or employees as members of 163
Retirement system, exclusion of members of commissions 158, 158.1
Schedule of proposed capital improvement projects 69.1
Welfare commission, see Public Welfare Department

COMMITTEES
Boards, of 19 (c)

SECTION

COMMITTEES—(Continued)
  Board of supervisors, see that title
    —noninterference in administrative affairs 22
  Citizens emergency relief committee, welfare department as successor 61.1 (8)

COMPENSATION
  Art commission 45
  Average final compensation, defined 165.2 (A)
  Boroughs
    —council, of 198
    —planning commission 202
  Bureau of fire prevention and public safety 38
  City planning commission 115
  Deductions
    —amounts paid health fund, of 172.1
  Defined 165.2 (A)
  Emergency appointees, of 149
  Employees, of, see Employees
  Fire commissioners 36
  Fire department, members of, see Fire Department
  Full compensation, salary or wages as 150
  Harbor commissioners 47
  Harbor master 48 (f)
  Health service, for 172.1
  Insurance 172
  Library commission 43
  Medical director of health service 172.1
  Medical services, for, under health system 172.1
  Nurses and inmate help, of, as bearing on civil service 142
  Officers, of, see Officers
  Park commission 40
  Particular officers, see the particular title
  Personal services, for, payment by warrant 150
  Police commission 35
  Police officers, see Police Department
  Public utilities commission, see that title
  Recreation commission 42
  Recorder designated to act as registrar of voters 60
  Retirement, for services after 163
  Retirement board members 159
  Retirement fund, salary deductions for 168.1 (I)
  Salary standardization, see that title
  Salary, term as including 165.2 (A)
  Schedules of 9, 151
    —use of class title and numbers in 141
  Suspension, pending 154
  Transferred employee, of 156
  Wages, compensation as including 165.2 (A)
  War memorial trustees 44
  Welfare commissioners 61.1 (1)

COMPENSATION EARNABLE
  Defined 165.2 (A)

COMPETING MEASURES
  Ballots, on 185

INDEX

SECTION

COMPROMISE
City attorney compromising litigation 26
—harbor commission, acting on behalf of .... 48 (i)
Referendum of ordinances authorizing 179

CONCEALMENT
Civil service examinations, of facts respecting 147

CONCLUSIVENESS
Retirement system tables, rates, etc. 160
Signatures to initiative, recall or referendum 180

CONDUCT
Civil service examinations, of 145
Elections, of, registrar of voters to regulate 17
Official misconduct, see Misconduct (Official)

CONDUITS
Law governing construction 107

CONFLICTING
Charter amendments 185
Measures on ballots 185

CONGRESSMEN
Municipal elections provisions inapplicable to 175

CONSENT
Appointing officer, of, to transfer of disabled employee 156
Civil service commission, of, to termination of limited tenure appointments 145.1

CONSOLIDATION
Boroughs, of 187, 218
Offices or positions of secretary and actuary of retirement board 159
Defined 188
Functions assigned by charter to departments 20
San Francisco and San Mateo counties, see Consolidation of San Francisco and San Mateo Counties

CONSOLIDATION OF SAN FRANCISCO AND SAN MATEO COUNTIES
Charter provisions as to 187, 218
Continuation of officers, employments and services on 189
Establishment of boroughs on 193, 194
Retirement rights on 190
Title records on 192
Transfer of cases on 191

CONSTITUTIONALITY
Charter, invalidity in part 266

CONSTRUCTION AND INTERPRETATION
Charter captions and headings 225

CONSTRUCTION WORK
Civil service, outside city workers 142

CONTINUANCE
Consolidation of counties, on, of offices, employments and services 189
Pension, firemen and dependents, to 170

CONTINUATION IN OFFICE
City clerk, on consolidation of boroughs ... 201
Civil service commissioners ... 140
Former officers and employees, of, under new charter ... 2, 142
—fire department officers and employees ... 36

CONTINUOUS SERVICE
Definition of ... 161
Retirement, for
—firemen ... 169, 171
—police ... 166, 168

CONTRACTS
Acquisition of street railway, compensation, fixing ... 131
Boroughs, by ... 195, 210
—power of controller as to ... 200
Charter not to affect existing ... 2
Certificate of available funds a prerequisite ... 86, 88
—considering allotted portions of appropriation items ... 72
Contractual services, by whom agreement made ... 88
Emergency, exception to contract provisions in ... 95
Harbor matters, contract with state respecting ... 48.1
Health service board, by, for medical services ... 172.1
Market Street Railway purchase ... 119.1 (5)
M. H. de Young Memorial Museum, relating to ... 51
Noninterference by supervisors, etc ... 22
Preparation by city attorney ... 26
Purchase of supplies, etc., see Property
Public utilities commission, contracts of ... 121
Public works, as to, see Public Works and Improvements
Restrictions on incurring obligations for expenditure of money 85

CONTRIBUTIONS
Pension fund, firemen's pensions ... 169
Retirement benefits
—City and County contributions for ... 158
Retirement fund, to
—for benefits to retired officers ... 158.1
—police department ... 168.1
—salary deductions for ... 168.1 (I)
Retirement system, to ... 169
—City and County, by ... 166
—employees or officers in armed forces, by ... 161
—fund chargeable with contributions ... 160
—members of police department, by ... 166
—paying during fiscal year ... 160
—refund of ... 166
—restriction of contributions ... 166
—teachers' contributions ... 165

CONTROL
Civil service examinations, of ... 145
Elections, of, by registrar of voters ... 173

CONTROLLER
Accounts ... 76
—appropriation ordinance as authority for revenue and expenditure accounts ... 72

SECTION

CONTROLLER—(Continued)
  —keeping 64
  —"unencumbered balance" defined 76
 Appointment 63
 Appropriation ordinance, preparing draft 72
 Appropriations, duties respecting 72
 Audit
  —accounts of boards, etc., by controller 66
  —accounts, etc., of controller, ordering by supervisors 68
  —claims 85
  —health service funds, of 172.1
  —money in treasury 66
 Borough controller 197, 200
 Budget, duties respecting, see Budget
  —estimate blanks, furnishing 69
 Cash reserve fund, transfers to 80
 Certificate of unencumbered balance 85, 86, 88, 88.1
 Certifying contracts or purchase orders 86
  —considering allotted portions of appropriation items 72
 Compensation 63, 151.1
 Creation of position 63
 Custody of official bonds 67
 Department performing work, report of unit cost 95
 Emergencies, reallocation of balances, etc 70.1 (6)
 Expenditures, certificates to precede 86
 Health service fund, duties as to 172.1
 Internal checking systems, devising 64
 Investigating claims 85
 Money in treasury, auditing 66
 Officer, as 4
 Official bond, custody of 67
 Patented, etc., articles, decision on purchase 88
 Payment for inter-departmental services, prescribing mode of 76
 Powers and duties 64
  —department head, powers as 20
  —inquiry and hearing 21
  —reports, requiring 21
  —subpoena, issuance 21
 Presentation of payrolls to 150
 Recall, as subject to 179
 Removal, limitation on 11
 Reports 65
  —copies to mayor, etc 65
  —sureties on official bonds, report as to 67
 Restriction on issuing warrants, certifying contracts, orders or encumbrances 72
 Schedule of allotments governing expenditures, preparation 72
 Statement of cash position of City and County 65
 Summary of resources, preparing 65
 Sureties on official bonds, investigation 67
 Unit cost of work done, determination 64
 Warrants, issuance, of 85
  —considering allotted portions of appropriation items 72
  —district attorney's special fund, warrants on 29
  —funds to be disbursed on warrants 82
  —requisites of warrants 76

SECTION

COPIES; COPYING
Ballots, of, mailing to voters 176
Candidates statements, of, mailing to voters 176
Charter amendments, of arguments opposing 183
Civil service examination papers, right to copy 147.1
Measures and arguments on special elections 183
—filing with registrar 183
Ordinances, of, positions, creating or abolishing 143
Petition, of, for review of health service board decisions 172.1
Recall, presenting to registrar copies of arguments 183
Sample ballots 183

CORONER
Consolidation of counties, continuation of coroner's office on 189
Functions and personnel included 61
Officer, as 4

COST; COSTS
Civil service examinations, of, to establish register of eligibles 145.1
Examination, of, for emergency appointments 149
Health service system, benefits to dependents not chargeable to city 172.1
Retirement benefits, of changes in 158
Schedule of compensation, of amendment of 151
Taxpayers' suits, allowances of costs and attorney's fees in 27
Verification of special election petitions, of 181

COUNCILS
Borough, see Boroughs

COUNSEL. See Attorneys

COUNTY
Defined 188
Powers appropriate to, possession of 2

COUNTY CLERK
Consolidation of counties, continuation county clerk's office on 189
Department of finance and records, inclusion in 61
Fees for law library, collection and payment 57
Officer, as 4

COUNTY WELFARE DEPARTMENT
Functions and personnel included 61
Public welfare department, see that title

COURTS. See Municipal Court, Superior Court
Consolidation of counties, transfer of cases on 191

CREDITS
Civil service examinations, on 145
—promotive examinations 146
—fire departments, in 146
—police service, in 146 (a)
—veterans and their widows, to 145
Fire department, for service in 146
Police department, for service in 146
Retirement credits
—consolidation of counties, on 190
—credits for service 165.2 (B)

SECTION

CREED. See Religion

CRIME
Compensation for injuries to police in preventing 172
Removal of officers for 11

CRIMINAL ACTIONS
Complaints in municipal and inferior courts, drawing and signing 30
District attorney's duties 29
Warrants of arrest
—district attorney, issuance by 29
—warrant and bond deputy, drawing by 30

CULVERTS
Law governing construction 107

DAMAGES
Claim for, requisites, time for filing 87
Public improvement, law governing paying damages incident to 107

DATA
Compensation, for fixing rate of 151

DATE
Board of election commissioners, of abolishment of 173
Declaration of candidacy
—certifying date of signing 175
—time of making 175
Eligible lists, date of expiration 145
Employment, of, as bearing on retirement benefits
—fire department 169
—police department 166, 167, 168
Health service board, for nomination of members of 172.1
Municipal elections, of 174
Ordinances, effective date, see Ordinances
Retirement, of 165.2 (B)
—day of month for 165.2 (B)
Retirement system
—election to become member 169
—effective date of optional membership 166

DEATH
Firemen, of, benefits on 169
Police officer
—benefits under retirement system 166
Police or fire service outside city, in, as covered by retirement system 162

DEATH BENEFITS
Fire department 169
—amount of benefits 169
Miscellaneous officers and employees, to estates of 165.2 (E)
Police department 166, 168.1 (D)
Retirement system, under 166, 168.1 (D)
—workmen's compensation as reducing 166
Term "benefit" as including 165.2 (A)

DEBTS; INDEBTEDNESS
- Bond issues, see that title
- Bonded debt limit 104
  - —exemptions
    - —foreign trade zone, indebtedness for 121
    - —harbor bonded indebtedness 47
- Borough bonded indebtedness 208
- Boroughs, of 194
- Market Street Railway unpaid balance not to constitute debt of City and County 119.1 (6)
- Tax anticipation notes 81

DECEDENT'S ESTATES. See Estates of Decedent

DECISIONS
- Dismissal of officer or employee, as to 154
- Health service board, by, as to medical fees 172.1
- Removal of officer 154
  - —chief administrative officer, removal of 59
  - —superintendent of schools 136
- Suspension of officer or employee, as to 154

DECLARATION OF CANDIDACY
- Fees for filing 175
- Filing with registrar 175
- Form of 175
- Refusal by registrar 175
- Registrar to furnish voters with 176
- Second or further declaration 175

DECLARATION OF POLICY
- Cable cars, policy as to retention 119.3
- Electorate, submission to 179
- Veto where submitted to electorate 185

DEEDS. See also Grants
- Power to convey property 2

DEFECTS
- Declaration of candidacy, in 175
- Initiative, election, in 186
- Recall
  - —election, in 186
  - —petition, in 179
- Sponsor's certificate, in 175

DEFICITS. See also Appropriations
- Compensation insurance payments 172
- Retirement system, deficit contributions to 166

DEFINITIONS. See Words and Phrases

DENOMINATION. See Religion

DENTISTS
- Health service system 172.1
  - —option as to selection of dentist 172.1
- Medical care as including services of 172.1
- Signing petition for review of health board decisions 172.1

INDEX

SECTION

DEPARTMENT OF ELECTRICITY
- Chief of department 61
- Functions and personnel included 61
- Superintendent 61
  - —street traffic advisory board, member of 61

DEPARTMENT OF FINANCE AND RECORDS
- Director 61
- Functions and personnel 61
- Offices under director 61
  - —county clerk, see that title
  - —public administrator, see that title
  - —recorder, see that title
  - —registrar of voters, see that title
  - —tax collector, see that title

DEPARTMENT OF PUBLIC HEALTH
- Advisory board, see Health Advisory Board
- Functions, institutions and personnel included 61
- Director 61
- Juvenile detention home, maintenance, etc 61

DEPARTMENT OF PUBLIC WORKS
- Director of public works 61
  - —appointment and powers 106
  - —compensation 106, 151.1
  - —liability for damages, conditions respecting 113
  - —ordering sewer, etc., mains 112
  - —property adjoining street, authority as to 112
  - —regulations, observance by public works commission 121
  - —recommendation of sale of bonds 110
  - —report of cost, amount to be levied and appropriation 110
  - —street traffic advisory board, member of 61
  - —spur track permit, granting and report 114
- Functions and personnel included in department 61
- Subdivision plats, submission to city planning commission 118
- Telephone exchange, inclusion 61

DEPARTMENT OF WEIGHTS AND MEASURES
- Functions and personnel included 61

DEPARTMENTS
- Business hours 220
- Civil service commission 140
  - —as employment and personnel department 141
- Chief of department, see Heads of departments, infra this title
- City planning department, see City Planning
- Combining or transferring functions or duties 20
- Consolidation of counties, on 189
- Continuance of officers, etc., under previous charter 2
- Creation and abolition by supervisors 9
- Chief administrative officer, departments under, see Chief Administrative Officer
- Electricity, department of, see Department of Electricity
- Finance and records, see Department of Finance and Records
- Fire department, see that title
- Harbor commission establishing departments 48 (g)

SECTION

DEPARTMENTS—(Continued)
  Heads of departments
    —appointing officer under civil service
      —head of department as ... 20
      —recommending head of utility, etc., as ... 20
    —appointments
      —chief administrative officer, by ... 60
      —noncivil service and temporary ... 20
    —assigning duties to employees ... 141
    —bids, rejection of ... 95
    —bills for claims for materials ordered, approval ... 20
    —checking materials, etc., ordered ... 20
    —civil service provisions, application ... 62
    —creation of positions, suggesting ... 20
    —director of planning ... 116
    —director of property ... 91
    —director of public welfare ... 61.1 (6)
    —estimates, requiring ... 20
    —librarian ... 43
    —noninterference by supervisors, etc. ... 22
    —officers, as ... 4
    —ordinances, recommending ... 20
    —powers and duties ... 20
    —recommendations
      —ordinances ... 20
      —purchase of property, as to ... 91
      —requiring ... 20
    —reduction of force to conform to needs of work ... 20
    —removal of noncivil service and temporary appointees ... 20
    —reports ... 20
    —requisitions for supplies, etc. ... 20
    —responsibility to whom ... 20
    —superintendent of parks ... 40
    —superintendent of recreation department ... 42
  Horticultural inspection department, see that title
  Judicial department, see that title
  Library department, see that title
  Materials, supplies and equipment
    —bills for claims, approval ... 20
    —checking, responsibility for ... 20
    —requisitions for purchase ... 20
  Mayor, departments under, see Mayor
  Park department, see that title
  Planning department, see City Planning
  Police department, see that title
  Powers and duties existing when charter effective, continued ... 23
  Property, department of ... 91
  Public health, see Department of Public Health
  Public utilities commission, departments under ... 122
  Public welfare department, see that title
  Public works, performance by department ... 95
  Purchasing department, see that title
  Real estate department, see that title
  Recreation department, see that title
  Requisitions for supplies, power to issue ... 20

DEPARTMENTS—(Continued)
- Retirement system, departments included in 165
- Service records, cooperation in making 152
- Subdivision heads
  - —appointing officer under civil service, designation as 20
  - —materials and supplies, duties respecting 20
  - —requisitions for supplies, issuance 20
- Supervision by mayor 25
- Weights and measures, see Department of Weights and Measures
- Welfare, see County Welfare Department; Public Welfare Department

DEPENDENTS. See also Children
- Health service system members, of, benefits to 172.1

DEPOSITARY BANKS
- Deposit of funds of City and County 82

DEPUTIES
- Borough manager, of 204
- City attorney, assistants to 26
- Consolidation of counties, on 189
- District attorney, assistants of 29
  - —warrant and bond deputy 30
- Probation officer 58
- Superintendent of schools, see Superintendent of Schools
- Under-sheriff, appointment 32
- Warrant and bond office, in 30

DESIGNATIONS
- Ballots, on 175

DEVISES. See also Bequests
- Boroughs, to 195

DE YOUNG MUSEUM. See M. H. de Young Museum

DIRECTOR
- Finance and records, director of department of 61
- Medical director, appointment of 172.1
- M. H. de Young Memorial Museum, of 51
- Planning, director of 116
- Property, director of, see Property
- Public health department, of 61
- Public welfare, director of 61.1 (6)
- Public works, director of, see Department of Public Works

DISABILITY. See also Illness
- Borough manager, of 204
- Leave of absence during 153
- Retirement for
  - —as precluding further service 163
  - —members of fire department 169, 170, 171
  - —members of police department .... 166, 168, 168.1 (c)
  - —police or firemen working outside city 162
- Transfer on 156

DISAPPROVAL. See Approval

DISCHARGE
Incompetence, for 154
Officers or employees, of 154

DISCIPLINARY MEASURES
Fines 155
Fire department, in 155
Health service board, by 172.1
Noninterference by supervisors, etc 22
Police department, in 155
Suspension 154
—members of police and fire department 155

DISCOUNTS
Payments to obtain 90

DISCOURTESY
Discharge for 154

DISESTABLISHMENT
Boroughs, of 194

DISHONESTY
Discharge for 154

DISMISSAL. See also Disciplinary Measures
Disciplinary measure, in fire and police departments, as 155
Employees, see that title
—during probationary period 148
Notice of, to civil service commission 143
Officers and employees, of 154
Politics, for participation in 157

DISTRICT ATTORNEY
Assistants and employees
—appointment and removal 29, 34
—qualifications 34
—warrant and bond deputy, assistants and clerks 30
Continuation of office of, on consolidation of counties 189
Bond, official 29
Compensation 29, 151.1
Duties 29
Election 5
Elective officer, as 5, 29
Qualifications 29
Special fund, requisition and use 29
Term of office 5
Vouchers for disbursements, filing 29

DISTRICTS
Assembly districts, see that title
Boroughs, creation of districts by 195

DISTURBANCE OF PEACE
Chief of police power to suppress 35.7

DOCUMENTS
Borough
—controller's power to order production of documents 200
—president to sign 199
Production of books, papers, etc., compelling 21

SECTION

DONATIONS. See Gifts and Donations

DOUBLE OFFICE
Borough office and city and county office ... 197

DRUGLESS PRACTITIONERS
Health service, selection of medical treatment ... 172.1
Medical care as including services of ... 172.1
Rates of compensation, under health system ... 172.1

DRUNKENNESS
Discharge or removal for ... 154

DURATION
City and County to have perpetual succession ... 1
Emergency appointments, of ... 149
Employment, of, notice to candidate ... 148
Leaves of absence, of ... 153
Limited tenure positions, of ... 145.1
Pensions
—firemen ... 170
—retired policemen, of ... 166, 167
Retirement allowances ... 165.2 (A)
Service, members of health service board ... 172.1
Suspension, of ... 154

DUTIES
Assignment of, by chief of department ... 141
Boroughs, of ... 195
—clerk, of ... 201
—commission, of ... 194
—controller ... 200
—council, of ... 198, 202
—library board ... 203
—manager ... 204
—planning commission ... 202
—president ... 199
Death of policemen in performance of, benefits to family ... 166
Discharge for neglect of ... 154
Particular board, commission or officer, see that title
Police, compensation for injuries in performing duties ... 172
Polling places, at, performance of ... 177

EASEMENTS
Boroughs, acquisition of easements by ... 195

EDUCATION. See Schools
Board of education, see that title

EFFECTIVE DATE
Consolidation of San Mateo county, of charter provisions as to 187
Initiative measure ... 184
Ordinances, of, see that title
Recall, of ... 184
Referendum measure ... 184

ELECTION
Health service, as to ... 172.1
Membership in retirement system, as to ... 165.2 (A), 169
Pension, actuarial equivalent of ... 166

INDEX

SECTION

ELECTION LAWS
  Canvass, laws governing.......... 178
  Election officer's neglect or violation of.......... 177
    —as ground for withholding pay.......... 177

ELECTION OFFICERS
  Appointment 177
    —application of general law.......... 177
    —retired officers or employees, of.......... 163
  Pay of, grounds for withholding.......... 177
  Precinct boards 177
  Where voting machines used.......... 177

ELECTIONS
  Ballots, see that title
  Board of education members.......... 134
  Bond issues
    —authorization by voters.......... 103
    —utility bond election.......... 105
  Boroughs, change in.......... 194
    —borough elections 195, 214
    —election of borough officers.......... 197
  Calling, boroughs, as to.......... 194
  Canvass of voters and returns.......... 178
    —by board of supervisors.......... 9
    —laws applicable to.......... 174
  Certificate of election.......... 178
  Charter, substantial compliance with.......... 186
  Conduct, control and management of.......... 173
  Declaration of candidacy, see that title
  General
    —declaration of policy, submission of petition for.......... 182
    —initiative petition, submission of.......... 182
    —ordinances, submission to electors.......... 179
    —recall petition, submission of.......... 182
    —referendum petition, submission of.......... 182
  Health service board, members of.......... 172.1
  Initiative, petition 174
  Municipal 174
    —charter, conformity to.......... 186
    —informalities in conduct of.......... 186
    —special elections 174
    —time of holding.......... 174
  Municipal officers, of.......... 174
  Nominations, manner of making.......... 175
  Officers, see Election Officers
  Petition
    —for special municipal election..........174, 180
    —recall, for 174
    —referendum, for 174
  Primary, §175 not applicable to.......... 175
  Purity of elections act, see that title
  Registration of voters.......... 173
  Returns
    —canvass 9, 178
    —laws applicable to.......... 174

ELECTIONS—(Continued)
- Secrecy
  - —election of health service board 172.1
- Special elections 179
  - —arguments to be mailed to voters 183
  - —funds for 181
  - —measures and arguments to be mailed voters 183
  - —petitions for 174, 180
- Tax for 78
- Time for
  - —boroughs, as to 194

ELECTIVE OFFICERS
- Assessor 5, 28
- Boroughs, of 197
- City attorney 5, 26
- District attorney 5, 29
- Enumeration 5
- Mayor 5, 25
- Municipal court judges 5, 53
- Public defender 5, 33
- Recall of 179
- Retirement age of 158.1
- Retirement system, as members of 158, 158.1
- Salary standardization, subject to 151.1
- Sheriff 5, 32
- Supervisors 5
- Treasurer 5, 31

ELECTORS
- Municipal elections, at 174
- Sponsors of candidates must be 175
- Voter, definition of 188

ELECTRICITY
- Department of, see Department of Electricity
- Poles, conduits, etc., joint use with City and County 121
- Street railways, see Transportation

ELIGIBILITY
- Certification of eligibles by secretary of civil service commission 141
- Fire department, promotion in 146
- Office or employment, for, civil service commission's rules as governing 141
- Police department, promotion in 146
- Recalled officer, of 184
- Retirement as affecting eligibility to office or employment 163
- Retirement benefits, to 158

ELIGIBLE LISTS
- Approval of 147.1
- Certification of names on 148
- Credits of 145
- Emergency appointments from 149
- Fire department 146
- Fraud, etc., in securing standing on 147
- Mistakes in, correction of 147.1

SECTION

ELIGIBLE LISTS—(Continued)
Politics, persons on eligible list not to engage in.......... 157
Posting 147.1
Preparation by civil service commission 145
Publishing 147.1
Removal of names from.......... 145
—fraud, collusion, etc., for.......... 147
Service men, rating preserved.......... 153

EMERGENCIES
Appointments 149
Appropriations, reallocation, deductions in..........70.1 (6)
Emergency reserve fund.......... 79
—referendum of ordinances appropriating money from.......... 179
Mayor's emergency powers.......... 25
National, leaves of absence during.......... 153
Ordinances, see that title
Precedence of section over conflicting provisions..........70.1 (6)
Public work or improvement in.......... 95
Reallocation of funds..........70.1 (6)
Salary and wage deductions.......... 70.1
—amount 70.1 (2)
—board, etc., furnished by City and County, computation in case of..........70.1 (5)
—budget estimates as affected by..........70.1 (3)
—continuance of deduction..........70.1 (4)
—reallocation of funds..........70.1 (6)
—retirement system contributions, computation.......... 70.1
—use of amount deducted..........70.1 (2)
Tax reduction 70.1 (6)

EMERGENCY MEDICAL AND HOSPITAL CARE
Municipal hospitals, in
—to members of health service system.......... 172.1

EMERGENCY MEASURES. See Ordinances

EMERGENCY RESERVE FUND
Provision for 79
Referendum of ordinances appropriating money from.......... 179

EMINENT DOMAIN
Appraisal and report by director of property.......... 91
Boroughs, exercise by.......... 195
Recommendation of acceptance of negotiations or instituting proceedings 91

EMPLOYEES
Airport, employees at.......... 125
Appointment
—assessor, by 28
—city attorney, by..........26, 34
—elective officers, by.......... 34
—district attorney's office, employees in..........29, 30, 34
—mayor, by 25
—probation officers, employees of.......... 58
—public defender, by.......... 33
—registrar of voters, by.......... 173
—retirement board 172.1

SECTION

EMPLOYEES—(Continued)
  —sheriff, by ... 32
  —treasurer, by ... 31
 Appraisers, employment by director of property ... 91
 Bonds, authority of board to require ... 19 (i)
 Boroughs, of ... 195, 204
 California Academy of Sciences, in buildings under ... 52
 California Palace of Legion of Honor, employees in ... 50
 City attorney's office
  —appointment and removal in ... 26, 34
  —civil service provisions, application ... 34.1
 Civil service
  —employees included ... 142
  —employment under, for ... 145
  —opportunity of employees to be heard by commission ... 140
 Classification of employments ... 141
  —for salary standardization purposes ... 141, 151
 Compensation
  —charter governs rates subject to standardization ... 71
  —clerk and employees in municipal court ... 55
  —effect of charter ... 2
  —emergency appointees, of ... 149
  —emergency deductions ... 70.1
  —fixing by supervisors ... 9, 151
  —health service board employees ... 172.1
  —how rate fixed ... 71
  —increases, when and how fixed ... 71
  —law library, employees in ... 57, 151
  —medical director of health service ... 172.1
  —minimum ... 71, 151
  —noninterference by supervisors, etc ... 22
  —notice of establishment or changes ... 143
  —nurses, of, as bearing on exemption from civil service ... 142
  —part-time employees, fixing ... 151
   —Academy of Sciences, in buildings under ... 52
  —payment by warrant ... 150
  —power of appointing officer to fix ... 143
  —probation officers, employees of ... 58
  —referendum of salary ordinance prohibited ... 179
  —retirement board members ... 159
  —salary, term as including ... 165.2 (A)
  —schedules of, fixing ... 151
  —school teachers and employees, fixed by department ... 151
  —secretary-jury commissioner and assistants ... 56
  —services, salary as full compensation for ... 150
  —specialized services, for ... 151
  —standardization ... 151
  —Steinhart Aquarium, employees in ... 52, 151
  —suspension, during ... 154
  —transfer for age or other incapacity, after ... 156
  —when paid ... 85
 Conditions of employment
  —bus operators ... 125
  —platform men ... 125
 Continuance of employees, etc., under previous charter ... 2

SECTION

EMPLOYEES—(Continued)
Department of planning, of 115
Designating employee to perform undesignated duties 60
Disability, as ground for transfer to other positions 156
Discharge of 154
Discourtesy, discharge for 154
Disciplinary action, noninterference by supervisors, etc. 22
District attorney's office, employees in 29
Elective offices, in 34
—compensation, fixed by salary standardization provisions 34
Experts, exemption from qualifications for employment 7
Fees, payment into treasury 150
Fire department, see that title
Fitness and merit, tests to determine 140, 141
Forfeiture of position where candidate for election 5
Harbor commission, employees of 48.1
Health service system 172.1
—election of members 172.1
—employees as members of board 172.1
Hearing of charges against 154
Hours of labor
—bus operators 125
—platform men 125
Ill health, residence outside in case of 7
Immoral conduct, discharge for 154
Incompetence, dismissal for 154
Insubordination, discharge for 154
Intemperance of, as cause for removal or discharge 154
Laws respecting, power to make and enforce 2
Leaves of absence 153
Maximum number in departments, fixing 9
M. H. de Young Memorial Museum, employees in 51
Misconduct
—bar to employment 223
—official, see Misconduct (Official)
Notice to
—of hearing of charges against 154
—of termination of employment 148
Number in departments, fixing by supervisors 9
Pacific Gas & Electric Company, retirement benefits for 165.1
Park department, employees in 40
Part time or temporary
—Academy of Sciences, in buildings under 52
—fixing compensation of 151
—retirement benefits to 165.2 (A)
Police department, see that title
Probationary period 148
Politics, discharge for engaging in 154, 157
—forfeiture of appointable officer or employment on becoming candidate 7
Prohibited practices 222
Promotion of, see Promotions
Public welfare department, of 61.1 (7)
Public work or improvement, working conditions on 98
Qualifications 7

SECTION

EMPLOYEES—(Continued)
Registrar of voters, appointments by 173
Reinstatement
—military service, after 153
—Red Cross service, after 153.1
Residence 7
—harbor commission employees, rule as to 48.1
—leased utilities, employees on 125.1
—public utility work, employees engaged in 125
—"resident" defined 7
Retirement board, appointment of employees 172.1
Retirement system, see that title
Service records of 152
Steinhart Aquarium, employees in 52
Suspension of 154
—hindering service investigation, for 152
Teachers, see Schools
Transfer of, civil service commission's rules to govern 141
Traveling expenses 219
Workmen's compensation 172

EMPLOYMENTS
Applications for, rules governing 141
Ballots, designating candidate's employment on 175
Civil service, employments included in 142
Civil service commission 140
—as employment department 141
Civil service examiners, of 145
Classification of, by civil service commission 141
Consolidation of counties, continuation of employments on 189
Creation by ordinance 143
Emergency employment 149
Employees, see that title
Funds, retrenchment for want of, rules governing 141
Limited tenure appointments 145.1
Misconduct as bar to 223
Pacific Gas & Electric Company's employees, of, retirement benefits 165.1
Resumption after military service 153
Retired persons, of 163
Schedules of compensation, employments included in 151
—certification by controller, considering allotted portions of appropriation items 72

ENLARGEMENT
Boroughs, of 194

ESTABLISHMENT
Boroughs
—consolidation, on 193
—new 194
Civil service commission, of 140
Registrar of voters, office of 173
Retirement system, of 158
Voting precincts 173

ESTATES OF DECEDENTS
Firemen, payment of death benefits to estates of 169
Retirement system, benefits on death of police officer 166

EVIDENCE
Injuries, of, to fireman seeking retirement 169
Inquiry and hearing, production of evidence 21
Presumptions, see that title

EXAMINATIONS
Civil service examinations, see Civil Service Examinations

EXAMINERS
Civil service examiners 145

EXCHANGE
Realty, exchange of 92

EXEMPTIONS
Civil service, positions exempted from 142
Health service, from 172.1
—power of retirement board as to 172.1
Referendum, from, of certain ordinances 179
Salary standardization, from 151.1

EXPENDITURES. See Fiscal Matters

EXPENSES
Health service system, of, funds chargeable with 172.1
Officers, allowable traveling expenses 219
Recall, of, reimbursement for 184
Special elections, funds to meet 181
Witnesses, of, at disciplinary hearings of members of police and fire departments 155

EXPERT SERVICES
Civil service, as exempt from 142

EXPOSITION AUDITORIUM
Director of property, management of 91
Real estate department to control 61

FAITH. See Religion

FAMILY
Fireman, of, pensions to 169
Policemen, of, death allowances to 166, 168.1 (D)

FEES
Admission to buildings under authority of Academy of Sciences 52
Civil service examination papers, on inspection of 147.1
Declaration of candidacy, on filing 175
Harbor fees, tolls, etc., regulation 48 (d)
Health service system, for services under 172.1
Law library, for 57
License fees, fixing 24
Permit fees, fixing 24
Payment into treasury 150

FEMALES
Civil service appointments, disregard of sex 148

SECTION

FEMININE
Masculine, as including 165.2 (A), 168.1 (A)

FILES; FILING
Declaration of candidacy 175
—refusal of registrar to file 175
Fees, see Filing Fees
Health service board
—filing membership nominations 172.1
—petition for review of decisions of 172.1
Initiative
—arguments 183
—petition 179
—affidavits denying signatures to 180
—laws, rules and regulations governing 180
—withdrawal of names from 180
Ordinances 12, 15
—creating or abolishing positions 143
Recall
—arguments 183
—petition, of 179
—affidavits denying signatures to 180
—laws, rules and regulations governing 180
—withdrawal of names from 180
Referendum
—arguments 183
—petition 179
—affidavits denying signatures to 180
—laws, rules and regulations governing 180
—withdrawal of signatures 180
Retirement system
—application for membership in 158.1
—options as to membership in 165.2(A)
Withdrawal of candidacy 175

FILING FEES
Declaration of candidacy 175
Law library, for 57

FINALITY
Dismissal or removal of officer or employee, of 154
—chief administrative officer 59
Orders of civil service commission, of 148
Ordinances, referendum as affecting 179
Retirement system tables, rates and contributions 160
Signatures, of, to petition for initiative, recall or referendum 180
Suspension of employees, of 154

FINES
Disciplinary, in police and fire department 155

FIRE COMMISSION. See Fire Department

FIRE DEPARTMENT
Absence on military service as part of service 36
Age
—of applicants for positions, of 145
—entrants to uniformed ranks, ex-service men 153
Appeal and advisory board 38
Bureau of fire prevention and public safety, see that title

INDEX

SECTION

FIRE DEPARTMENT
- Captains
  - —compensation ... 36
  - —examinations for ... 146
- Chief engineer, membership in appeal and advisory board ... 38
- Chief of department
  - —appointment ... 36
  - —causing removal of structures during conflagration ... 36
  - —compensation ... 36
  - —deputy, appointment, compensation ... 36.1½
  - —fire marshal and assistants, appointment ... 37
  - —secretary to ... 36.1½
- Citizens, members to be ... 7
- Commission ... 36
  - —bureau of fire prevention, jurisdiction over, etc. ... 38
  - —compensation and term ... 36
  - —salvage corps, jurisdiction over ... 38.1
  - —sending equipment outside City and County ... 36
- Compensation ... 36
  - —deputy chief of department ... 36.1½
  - —effective date of increase ... 36
  - —secretary to chief of department ... 36.1½
  - —standardization, exclusion from ... 151.1
  - —war, rules applicable until 6 months after termination ... 36.1
- Deputy chief of department, appointment, compensation ... 36.1½
- Disciplinary measures in ... 155
- Examinations for positions in promotive examinations ... 146
- Exchange of watches ... 36
- Fire signal system, connection with ... 61
- Marshal, fire, see Fire Marshal
- Members of
  - —exchange of watches ... 36
  - —for purpose of retirement system ... 162
  - —qualifications ... 7, 145
  - —physical qualifications for positions in ... 145
- Officers
  - —exchange of watches ... 36
- Platoon system ... 36, 36.1 (a)
- Powers during conflagration ... 36
- Promotions in ... 146
- Qualifications of ... 7, 145
- Ranks in ... 146
- Residence requirements ... 7
- Removal, cessation of residence ... 7
- Retirement system, see that title
- Rewards ... 36
- Salary standardization, exemption from ... 151.1
- Salvage corps, see that title
- Secretary to chief of department, appointment, compensation ... 36.1½
- Sending equipment outside City and County ... 36
- Service records ... 152
- Termination of appointments ... 148
- Tours of duty ... 36, 36.1 (a)
- Transfers because of age or other disability ... 156

FIRE DEPARTMENT—(Continued)
Watches, exchange of 36
Work periods 36
—exchange of watches not violation 36
Years of service, computation of 36

FIRE MARSHAL
Appeal and advisory board, membership in 38
Appointment, powers and duties 37

FISCAL MATTERS
Appropriations, see that title
Bonds, see that title
Borough fiscal procedure 206
Budget, see that title
Disbursement of funds, manner of 82
Expenditures
—allotment schedule, preparation and controlling effect 72
—boards, report of expenditures, requiring 19(e)
—commissions, report of expenditures, requiring 19(e)
—plants, etc., outside boundaries, expenditures for 2
—premiums of bonds of officers and employees 8, 19 (1)
—restrictions on incurring obligations for expenditure 85
Funds, see that title
Harbor
—application of fiscal procedure 48.1
—revenue, deposit and use 48.1
Money and checks received delivered to treasury 82
Special assessments, see that title
Surplus 80
Taxation, see that title
Unencumbered balance, see that title

FISCAL YEAR
Retirement system contributions to be paid during 160
When year begins 69

FOREIGN TRADE ZONES
Bonded indebtedness for 121
Public utilities, as 121

FORMS
Ballots, elections for health service board membership 172.1
Certificates, of, for sponsors of candidates 175
Declaration of candidacy 175
Pamphlet form of material mailed to voters 176
Printed measures and arguments for elections 183
Retirement system
—application for membership in 158.1
—options as to membership in 165.2 (A), 166, 169

FRANCHISES
Market Street Railway franchises, transfer to City and County 119.1 (5) (c)
Mayor, postponement of final action until vote 25
Ordnance granting
—emergency measure, not to be passed as 16
—referendum of ordinance granting new for operation of utility 123

SECTION

FRANCHISES—(Continued)
- —time from introduction to passage.......... 13
- —when effective.......... 16, 179
- Twenty-five year street railway operating permit, nonapplication of provisions governing franchises to.......... 131

FRATERNAL AFFILIATIONS
- Civil service examinations, avoidance of fraternal matters.......... 145

FRAUD
- Civil service examinations, in.......... 147
- Collusion in contracts.......... 100
- Health service board membership elections.......... 172.1

FUNDS
- Bond funds
  - —charges against, retirement system contributions.......... 160
  - —transfer, limitation on.......... 77
- Boroughs, of.......... 195
  - —administration by controller.......... 200
- California Academy of Sciences, furnishing for.......... 52
- California Palace of the Legion of Honor fund.......... 50
- Campaign funds, soliciting by employees prohibited.......... 157
- Cash reserve fund.......... 80
  - —levy for.......... 81
  - —limit on amount.......... 81
  - —purposes for which used.......... 81
- Chief of police contingent fund.......... 35.8
- Deposit in bank.......... 82
  - —security, when sold.......... 82
- District attorney's special fund, requisition and use.......... 29
- Emergency reserve fund.......... 79
  - —referendum of ordinances appropriating money from.......... 179
- Emergency salary deductions, reversion to fund.......... 70.1 (2)
- Employment, retrenchment for want of funds, rules governing 141
- Firemen's retirement fund, city contributions to.......... 169
- General funds
  - —Market Street Railway purchase price not to be paid from.......... 119.1 (6)
  - —retirement contributions, fund to which chargeable.......... 160
- Harbor revenues, special fund.......... 48.1
- Health service system, of.......... 172.1
  - —duties of controller as to.......... 172.1
  - —funds chargeable with expenses of.......... 172.1
  - —use by health service board.......... 172.1
- How disbursed.......... 82
- Investment
  - —health service fund, of.......... 172.1
  - —trust funds, of.......... 82
- Limited tenure positions, termination for lack of funds.......... 145.1
- Loans, inter-departmental.......... 81
- Market Street Railway purchase price, restriction as to funds from which paid.......... 119.1 (6)
- M. H. de Young Memorial Museum fund.......... 51
- Municipal, health service claims against.......... 172.1
- Municipal Railway-Market Street Extension fund.......... 3
- Park fund, revenue from lease for parking station.......... 41

FUNDS—(Continued)
Pension funds
—deposit with treasurer 82
—transfer, limitation on 77, 81
Plants, etc., outside boundaries, expenditures for 2
Public improvement revolving fund 103, 110
—crediting levy of assessment as collected 110
Purchaser's revolving fund 75, 90
Relief funds, aged firemen 170
Revolving funds 75
Retirement allowances, for payment of 168.1 (I)
Retirement fund
—contributions to 158.1
—contributions by teachers 165
Retirement system, of
—administration by retirement board 159
—application of contributions to 166
—fund against which contributions chargeable 160
Salary survey fund 151
School, transfer, limitation on 77
Special election fund 181
—reimbursement of 181
—revolving fund 75
State compensation insurance fund 172
Transfer, inter-departmental 77
—mode and restrictions on 81
Transfers
—surplus, transfer to other specific purpose 77
—capital improvement project, approval by planning department prerequisite 77
—unencumbered balance defined 76
Trust funds
—investment 82
—transfer, limitation on 77
Utilities, funds 127
—reconstruction and replacement funds 128.1
—Market Street Railway, exemption 119.1 (3)
—revenue, payment into fund 127
—Market Street Railway, exemption 119.1 (3)
—revolving funds 75
—surplus
—transfer to general fund, when 129
—Market Street Railway, exemption 119.1 (3) (6)
—transfer, limitation on 77

GARAGES AND REPAIR SHOPS
Parks, lease for subsurface garage 41
Purchaser of supplies, authority over central garage and shop 88
Transfer to central garage and shop 88

GARBAGE
Borough's powers as to 195
Initiative ordinance, see Appendix "A"

GAS
Mains in improved streets, ordering laying of 112

INDEX

SECTION

GENDER
Words in masculine, as including feminine and neuter ... 165.2 (A), 168.1 (A)

GENERAL ELECTIONS. See Elections

GENERAL FUNDS. See Funds

GENERAL MUNICIPAL ELECTION. See Elections

GENUINENESS
Signature of
—initiative petition ... 180
—recall petition ... 180
—referendum petition ... 180

GIFTS AND DONATIONS
Authority to receive and administer
—boards ... 19 (d)
—City and County ... 2
Boroughs, to ... 195
City and County, to ... 2
M. H. de Young Memorial Museum ... 51
Power to receive and to carry out purposes of ... 2
Supervisors' authority ... 19 (d)

GOVERNMENTAL AGENCY
Consolidation of counties, transfer of cases on ... 191
Defined ... 188

GRADES
Examination grades, see Civil Service Examination
Streets, grades of, see Streets

GRANTS
Ordinance affecting, emergency measure, not to be passed as 16

HARBOR
Acceptance of grant ... 47
Authority to manage and control ... 47
Budgetary procedure, application of ... 48.1
Cold storage plants, regulation and control ... 48 (b)
Commission, see Harbor Commission
Contract with state or state agency ... 48.1
Departments, establishing ... 48 (g)
Dredging, regulation ... 48 (c)
Excavation, regulation of ... 48 (c)
Fees, rates, tolls and charges, regulation of ... 48 (d)
Fiscal procedure, application of ... 48.1
Leasing of lands, etc. ... 48 (e)
Master, appointment and duties ... 48 (f)
Railroad, regulation and control ... 48 (b)
Refrigeration plants, regulation and control ... 48 (b)
Revenues, deposit and use ... 48.1
State bonded indebtedness, assumption of ... 47
Vessels, regulating anchoring, mooring, towing and docking ... 48 (a)
Wharves, regulation and control ... 48 (b)

HARBOR COMMISSION
Actions and proceedings, prosecuting and defending ... 48 (i)
Additional powers, conferring of ... 48 (i)

SECTION

HARBOR COMMISSION—(Continued)
  Bond, official, of commissioners ... 47
  Bureaus, establishing ... 48 (g)
  City attorney, legal adviser, authority ... 48 (i)
  Compensation of commissioners ... 47
  Employees ... 48.1
    —retirement system, membership in ... 48.1
  Management, etc., of harbor vested in commission ... 47
  Master, harbor, appointment ... 48 (f)
  Membership ... 47
  Possession of properties ... 48
  Powers and duties ... 48
  Properties vested in commission ... 47
  Special counsel ... 48 (i)
  Term of office ... 47
  Utilities connected with harbor vested in commission ... 47
  Vacancies in board, how filled ... 47

HARBOR MASTER
  Appointment, powers, etc ... 48 (f)
  Compensation ... 48 (f)

HEADINGS
  Charter, in ... 225

HEALING
  Prayer, by, exemption from health service ... 172.1

HEALTH
  Board, see Health Advisory Board
  Department, see Department of Public Health
  Director, authorization to live outside, granting ... 7
  Illness, see that title
  Service system, see Health Service System
  Zoning proceedings ... 177, 117.1
    —variances, hearing before administrator ... 117.3

HEALTH ADVISORY BOARD
  Duties ... 61
  Membership ... 61

HEALTH SERVICE BOARD
  Administration of health service system ... 172
  Bonds of members ... 172.1
  Classification of members for service ... 172.1
  Contracts, by, for medical services ... 172.1
  Election of members ... 172.1
  Employees of ... 172.1
    —compensation ... 172.1
  Exemptions from health service ... 172.1
    —filing affidavits with board ... 172.1
  Hearings, health service matters ... 172.1
  Investments by ... 172.1
  Members ... 172.1
  Powers ... 172.1
  President ... 172.1
  Rules and regulations ... 172.1
  Term of service of members ... 172.1
  Unexpired terms of members ... 172.1
  Voting, for members of ... 172.1

INDEX

SECTION

HEALTH SERVICE SYSTEM
Creation 172.1
Election of board members........ 172.1
Exemptions from 172.1
Expenses of, funds chargeable with........ 172.1
Funds, payments to........ 172.1
Medical care under........ 172.1

HEARING
Boroughs, of petition respecting........ 194
Charges against officers or employees, of........ 154
—chief administrative officer........ 59
—fire and police departments........ 155
—superintendent of schools........ 136
—welfare commissioner 61.1 (4)
Civil service commission, of
—change in rules pending........ 141
—right of dismissed employee to hearing before........ 148
—right of public to attend........ 140
Health service board, medical care and fees under health service 172.1

HEARING AND INQUIRY
Licenses, power as to........ 24
Power of 21, 22

HETCH HETCHY PROJECT
Department under utiltiies commission........ 122

HIGHWAYS
Borough powers as to........ 195
Outside boundaries, construction, etc........ 2
Streets, see that title

HOLDING ELECTIONS. See Elections

HORTICULTURAL COMMISSIONER (Agricultural Commissioner)
Officer, as 4

HORTICULTURAL INSPECTION DEPARTMENT
Functions and personnel included........ 61

HOSPITALIZATION
Medical care as including........ 172.1

HOSPITAL
Health service system, choice of hospital........ 172.1
Municipal, medical care to members of health service system.... 172.1

ILLNESS
Firemen, of, benefits where death results........ 169
Leaves of absence for........ 153
Residence outside in case of........ 7
Retirement for, policemen........168.1 (c)

IMMORALITY
Dismissal for 154

IMPROVEMENTS. See Public Works and Improvements

INATTENTION TO DUTY
Discharge for 154

SECTION

INCAPACITY
Retirement for, policemen 168.1 (C)

INCOMPETENCE
Discharge for 154

INCUMBENTS; INCUMBENCY
Ballots, designating candidate's incumbency on 175
Consolidation of counties, retention of office on 189

INCURRING LIABILITIES
Appropriation as prerequisite 86
Controller's certificate as prerequisite 86, 88, 88.1

INDEBTEDNESS. See Debts; Indebtedness

INFIRMITY
Retirement for
—firemen 169
—policemen 166, 168

INFORMALITIES
Initiative elections, in 186
Recall election, in 186
Referendum election, in 186
Special elections, in conduct of 186

INITIATIVE
Amended how 185
Appropriation of funds for 181
Arguments 183
—filing with registrar 183
—mailing to voters 183
Ballots
—form 184
—mailing to voters 183
Borough initiative 215
General laws of state applicable to 174
Informalities in initiative election 186
Majority vote on 184
Mayor, submission of printed arguments by 183
Petition 179
—laws, rules and regulations governing 180
—special election on filing 174
—withdrawal of signatures to 180
Recall, see that title
Referendum, see that title
Supervisors, submission of arguments by 183
Veto, not subject to 185

INITIATIVE ORDINANCES IN EFFECT
Refuse collection and disposal, see Appendix "A"
Regulation of street railway cars, see Appendix "B"

INJURIES
Police officers, to
—benefits to family where death results 166
—compensation insurance benefits 172
—retirement for 166
Retirement, members of fire department 169

INMATE HELP
Civil service, excepted from 142
Salary standardization, inapplicability 151

SECTION

INQUIRY. See Hearing and Inquiry

INSPECTION
  Borough records, of 198

INSPECTORS
  Board of, see Board of Inspectors
  Police department, of, see Police Department
  Precinct board, of 177

INSTITUTIONAL HELP
  Civil service examinations of, under new charter 142

INSTITUTIONS
  Head of institution
    —appointing officer under civil service, designation as 20
    —civil service, application to 62
    —materials and supplies, duties respecting 20
    —requisitions, issuance 20
  Outside boundaries, acquisition and operation 2
  Revolving funds 75

INSUBORDINATION
  Discharge for 154
  Politics, engaging in 157

INSURANCE
  California Academy of Sciences, insurance furnished by 52
  California Palace of Legion of Honor, insuring loan exhibits 50
  Retirement board, insurance officer as member of 159

INSURANCE COMPANIES
  Investments of, as basis for investment of retirement funds 159

INTEMPERANCE
  Removal or discharge for 154

INTEREST
  Deposit of funds of City and County, interest on 82
  Market Street Railway unpaid balance, interest on .... 119.1 (5) (a)
  Meaning of .... 165.2 (A), 168.1 (A)
  Pensions on, of police officers 166
  Special assessment, unpaid balance 110
  Tax levy for 78
  Utility bonds, interest during construction 102

INTERPRETATION. See Construction and Interpretation

INVALIDATING DEFECTS. See Defects

INVALIDITY
  Charter, partial invalidity 226

INVESTIGATIONS
  Hearing and inquiry, power of 21, 22, 24
  Initiative petitions, as to, by registrar 180
  Recall petitions, as to, by registrar 180
  Referendum petitions, as to, by registrar 180
  Schedules of compensation, to preserve data for 151
  Service records, to prepare 152

SECTION

INVESTMENTS
Health service funds ... 172.1
Retirement system funds ... 159

JAIL MATRON
Retirement service time ... 168.1 (H)

JUDGES
Election judges ... 177
Municipal court, judges of, see Municipal Court
San Francisco law library, membership of board of trustees ... 57
Recording, on consolidation of counties ... 192

JUDICIAL DEPT.
Clerk of municipal court, see Municipal Court
Fees collected paid into treasury ... 53
Judges, see Municipal Court
Law library, see that title
Municipal court, see that title
Probation boards, see that title
Secretary-jury commissioner ... 56

JUNK DEALERS
Examining books and premises of ... 24

JURISDICTION
Retirement board, of, health service matters ... 172.1

JURY AND JURORS
Retirement, as affecting right to serve as juror ... 163
Secretary-jury commissioner ... 56

JUSTICES' COURT
Consolidation of counties, transfer of cases on ... 191

JUSTIFICATION
Officer, of, on recall ... 183

JUVENILE COURT
Probation officer ... 58

JUVENILE DETENTION HOME
Department of public health to maintain ... 61

LABORERS
Civil service examination, extent of ... 145
Working conditions of labor under contract for public work or improvement ... 98
—"public work" or "improvement" includes what ... 98

LANDS. See Property
Leases, see that title

LAW LIBRARY
Access of public ... 57
Board of trustees ... 57
—officers, members as ... 4
Fees, collection for ... 57
Librarian ... 57
Management and control ... 57
Quarters ... 57
Salaries and compensation of employees, fixing ... 151

SECTION

LAWS. See also Ordinances; Regulations
Authority of City and County 2

LAWYERS. See Attorneys at Law

LAYOFFS
Unaffected by provisions as to suspension or discharge 154

LEASES
Airport 93
City and County, of 2
Director of property
—authority 91
—duties 93
Exposition auditorium 61
Harbor commission, of 48 (e)
Ordinance authorizing lease 93
—emergency measure, not to be passed as 16
Pacific Gas & Electric Company, with, as affecting
—retirement benefits 165.1
Power respecting 2
Utilities, leasing or selling 123
Water department, land used for 93

LEAVES OF ABSENCE
Absence from state 6
Armed forces, in
—employees of health service system 172.1
"Military leaves" 153
—Academy of Sciences, employees in buildings under 52
—continuous service for retirement not interrupted by 161
—M. H. de Young Memorial Museum employees 51
—firemen 36
—salvage corps members 38.1
—substitute promotional examinations on return from 146.1
Red Cross, for service in 153.1
Retirement system
—membership option to servicemen 165.2
Rules governing 153
Servicemen, to 153
Vacancy in office on absence from state 6
"War effort leaves" 153

LEGACIES. See Bequests

LEGAL HOLIDAYS
Offices, closing of 220

LEGALITY
Charter, partial invalidity 226
Initiative
—effect of informalities 186
—petition of 180
Investments of retirement system funds, of 159
Recall
—effect of informalities 186
—petition, presumptions as to 180
Referendum
—effect of informalities 186
—petition, of, 180

SECTION

LEGAL PROCEEDINGS. See Actions and Proceedings

LEGISLATION. See Ordinances
  Boroughs, for ... 218
    —legislation of ... 205

LEGISLATURE
  City and County officers as members of, prohibited ... 142

LIABILITY. See also Actions and Proceedings, Bonds, Claims, Incurring Liability
  Charter, effect on ... 2
  Tax anticipation notes, limitation on amount ... 81

LIBRARIES
  Boroughs
    —library board ... 203
    —powers as to ... 195
  Law library, see Law Library
  Tax ... 78

LIBRARY BOARD
  Borough, of ... 203

LIBRARY DEPARTMENT
  Commission
    —appointment, term, powers ... 43
    —librarian, appointment ... 43
    —secretary, appointment ... 43
  Purchase of books, etc. ... 88
  Standardization of compensation ... 151

LICENSES AND PERMITS
  Appeal from denial ... 24, 39
  Application for permit or license ... 24
    —appeal from denial to board of permit appeals ... 24, 39
  Building construction, etc., duties of bureau of fire prevention respecting ... 38
  Building permits
    —appeal to appeal and advisory board ... 38
    —bureau of fire prevention, duties respecting ... 38
    —construction pending appeal to appeal and advisory board 38
  Chief of police refusing or revoking permit ... 35.6
  Fees, fixing ... 24
  Ordinance regulating issuance and revocation of ... 24
  Power of inquiry
    —chief of police examining books and premises of pawnbrokers, etc. ... 24
    —tax collector's power to examine books ... 24
  Public streets and places, for use, obstruction or encroachment 24
  Revocation of license or permit
    —appeal to board of permit appeals ... 39
    —chief of police, by ... 35.6
    —ordinance to provide for ... 24
  Spur tracks, duties respecting, procedure ... 114

LISTS
  Candidates, of, use in arranging ballots ... 175
  Eligibility lists
    —commission's rules as governing ... 141
    —preparation by civil service commission ... 145

SECTION

LISTS—(Continued)
  Health service board, of positions under 172.1
  Initiative, of persons denying signature to petition for 180
  Precinct board, for, preparation by registrar 177
  Recall, of persons denying signature to petition for 180

MAGISTRATES
  Consolidation of counties, transfer of cases on 191

MAILING
  Ballots and election material to voters 176
    —arguments on measures to be voted on 183
    —sample ballots to voters 183
    —denials of signatures 180
    —notice of investigation of signatures 180
  Notice of hearings against employees 154
    —superintendent of schools, notice to 136
  Recall
    —denials of signatures 180
    —notice of investigation of signatures 180
    —denials of signatures 180
    —notice of investigation of signatures 180

MAJORITY VOTE
  Borough council, in 198
  Borough powers, transfer to city and county 196
  Consolidation, on 194
  Initiative, on 184
  Meaning of term 19
  Recall, on, ... 184
  Referendum, on 184
  Special election, on 184

MANAGEMENT
  Elections, of, by registrar of voters 173
  Retirement system, of 159

MANAGER
  Borough manager 197, 204

MANUFACTURERS
  License tax, limitation on 24

MARKET STREET RAILWAY UNIFICATION
  Accounting 119.1 (3)
  Appropriation 119.1 (3)
  Authority to unify 119.1 (1)
  Bonds to fund or refinance unpaid balance 119.2
  Budget adoption 119.1 (3)
  Commission
    —contract, execution 119.1 (5)
    —fixing and collection rates and fares, manner pending and after payment 191.1 (8)
    —operation of properties prior to payment in full 119.1 (3)
  Contract
    —execution 119.1 (5)
    —terms .... 119.1 (5) (a-e)
  Controlling effect of section 119.1 (5)
  Debt of City and County, unpaid balance not to constitute 119.1 (6)
  Extension of existing railway, acquisition as 119.1 (7)

MARKET STREET RAILWAY UNIFICATION—(Continued)
- Fares .... 119.1 (3), (5) (d), (8)
  - —how fixed after price paid 119.1 (8)
  - —nonapplication of §130 until price paid 119.1 (8)
- Findings
  - —funds to pay bonds .... 119.1 (5) (a)
  - —public interest and necessity 119.1 (2)
  - —ratios for gross revenue, etc .... 119.1 (3) (d)
- Franchises, transfer to City and County .... 119.1 (5) (c)
- Fund, Municipal Railway-Market Street Extension 3
  - —obligation limited to 119.1 (6)
- Interest on unpaid balance .... 119.1 (5) (a)
- Operating permit, surrender to City and County .... 119.1(5) (c)
- Operation pending payment in full 119.1 (3)
  - —exemption from §§ 74, 127, 128, 128.1, 129, 130 .... 119.1 (3)
- Payments
  - —fund from
    - —application of 119.1 (4)
    - —how made 119.1 (4)
  - —initial payment .... 119.1 (5) (a)
  - —unpaid balance
    - —entire balance due, payment of 119.2
    - —from what paid .... 119.1 (5) (a) (e), (6)
    - —interest .... 119.1 (5) (a)
- Ratios for gross revenues, etc .... 119.1 (3) (d)
- Title, when transferred .... 119.1 (5) (b)
- Transfer privileges .... 119.1 (3), (5) (d)
- Unification 119.1
- When consolidation effected 119.1 (3)

MARKS
- Civil service examination, on, right to inspect 147.1

MASCULINE
- Feminine, as including .... 165.2 (A), 168.1 (A)

MATRON OF JAIL. See Jail Matron

MAPS
- Realty owned by City and County 94

MASTER PLAN. See City Planning

MAYOR
- Absence, acting mayor during 25
- Acting mayor, designation of 25
- Annual appropriation ordinance, submitting draft to supervisors 72
- Appointive power 25
  - —art commissioners 45
  - —assistants and employees 34
  - —board of education, when appointment made 134
  - —board of permit appeals, members of 39
  - —boards generally 25
  - —borough council 197
  - —chief administrative officer 59
  - —city planning commission 49, 115
  - —civil service commissioners 49, 140
  - —commissioners generally 25

SECTION

MAYOR—(Continued)
- —controller 63
- —harbor commissioners 47
- —library trustees 43
- —planning commissioners 115
- —police commissioners 35
- —public utilities commissioners 49, 120
- —recreation commissioners 42
- —retirement board members 49, 159
- —secretaries 25
- —stenographer 25
- —successors to recalled officers 184
- —successors to retired officers 184
- —unexpired term of retired officer, to 158.1
- —vacancy in office, filling 25
  - —planning commission, on 115
- —war memorial, board of trustees 44
- —welfare commissioners 61.1 (2)
- Board of education, nominating members 134
- Bond, official 25
- Budget, duties respecting, see Budget
- Chief executive officer 25
- Combining or transferring functions or duties 20
- Compensation 25, 151.1
- Contracts, Market Street Railway purchase contract 119.1 (5)
- Controller's bond, duties as to 67
- Departments under mayor
  - —art commission, see that title
  - —board of education, see that title
  - —board of permit appeals, see that title
  - —city planning commission, see that title
  - —civil service commission, see that title
  - —fire department, see that title
    - —salvage corps, see that title
  - —fire marshal, see that title
  - —harbor commission, see that title
  - —library department, see that title
  - —park department, see that title
  - —police department, see that title
  - —public utilities commission, see that title
  - —recreation department, see that title
  - —retirement board, see that title
  - —war memorial, see that title
- Election 5
- Elective officer, as 5, 25
- Eligibility for appointive position 5
- Emergency powers 25
  - —reducing appropriations and taxes, etc 70.1 (6)
  - —referendum of ordinances respecting 179
  - —salary deductions during 70.1
- Emergency reserve fund, recommending appropriations for 79
- Ex-mayor to have seat in board of supervisors 25
- Ex-officio membership
  - —California Palace of Legion of Honor, board of 50
  - —M. H. de Young Memorial Museum board 51

SECTION

MAYOR—(Continued)
—trustee of law library board 57
Initiative, presenting printed arguments 183
Master plan, certifying copy of resolution adopting or amending 116
Message and recommendations to supervisors 25
Misconduct, official
—failure to remove certain officers and appointees 11
—penalty for official misconduct 223
Nomination, board of education members 49
Ordinances, duties respecting, see Ordinances
Powers
—appointive officers, see supra, this title Appointive power
—removal 11
—departments, recommending creation or abolition 9
—emergency 25
—enumeration 25
—noninterference in administrative affairs 22
—inquiry and hearing 21
—removal of officers, duties respecting 11
—reports, requiring 21
—subpoena, issuance 21
—suspension of officers 11
Process, service on 25
Prohibited practices of officers 222
Recall, presenting printed arguments 183
Referendum, submission of arguments 183
Removal of appointees 11
—secretary 25
Secretaries, appointment and removal 25
Stenographer 25
Studies and surveys in anticipation of emergency 25
Supplemental appropriations, request for, for emergency employment examinations 149
Term of office 5
Vacancy in office, filling 25
Veto 14
—appropriation ordinance 72

MEASURES
Competing measures on ballots 185
Special elections 179
—printing and mailing measures 183
Veto, amendment or repeal where submitted to electorate 185

MECHANICAL TRADES
Positions in, qualifications for 145

MEDICAL CARE OR SERVICE
Civilian defense workers 9
Health service system 172.1
—adoption of plan of medical care 172.1
—measured by statutory standards of professional conduct 172.1
—rates of compensation 172.1
—restrictions on furnishing by city hospitals 172.1
Services included in term 172.1

MEDICAL DIRECTOR
  Appointment of, by retirement board 172.1

MEETINGS
  Boards, of ..... 19 (f) (g)
    —supervisors, of, see Board of Supervisors
  Borough council 198
  Civil service commission 140
    —right of public to attend 140
    —time of 140
  Commissions, of ..... 19 (f) (g)

MEMBERS; MEMBERSHIP
  Board of election commissioners, abolition of 173
  Boards, of, see particular boards, and Boards
  Boroughs
    —commission 194
    —council 197
    —library board 203
    —planning commission, of 202
  Commissions, of, see particular commissions
  Fire department, see that title
    —within terms of retirement system 162
  Health service system, of 172.1
    —membership for election of board 172.1
    —payments by members to fund 172.1
    —power of retirement board as to 172.1
  Police department, see that title
    —within terms of retirement system 162
  Retirement system, of, see Retirement System

MERCHANT MARINE
  Leaves of absence to serve in 153

MERIT SYSTEM
  Appointments to office, consideration of merit and fitness 140
  Civil service examinations, eligibles to be arranged in order of excellence 145
  Credits, see Credits
  Firemen, credits for meritorious service 146
  Police department, promotive examination credits ..... 146 (a)
  Politics as subversive of 157
  Promotions, on basis of merit 146

M. H. de YOUNG MEMORIAL MUSEUM
  Appointment of director, etc 51
  Board of trustees 51
    —increase in number to 17, authorization, procedure 51
    —powers 51
  Conditions of donation, administration under 51
  Name 51
  Repairs, etc., funds for 51
  Secretary, duties 51

MILEAGE
  Officers, allowable to 219

MILITARY. See Army and Navy, War, Veterans
  Military leaves, see Leaves of Absence

SECTION

MISCONDUCT
Discharge for 154
—members of police or fire department 155
Official
—administrative affairs, wrongful interference with 22
—appointment, bar from 223
—dividing work, etc., to evade contract provisions 95
—influencing borough manager 204
—nonremoval of appointee or officer as 11
—penalty for 223
—presenting or approving claim for personal service in unauthorized manner 85
—suspension for 11
Prohibited practices of officers and employees 222

MISDEMEANORS
Borough manager, influencing 204

MISTAKE
Civil service lists, in, correction of 147.1

MORTALITY TABLES
Retirement system, for 160

MUNICIPAL COURT
Bailiffs in civil departments, detailing by sheriff 55
Clerk 53, 55
—annual report of presiding judge, filed through clerk 54
—appointing personnel 55
—fees for law library, collection and payment 57
—officer, as 4
—records and reports 53
—supervision and direction of presiding judge 53
Consolidation of counties, transfer of cases on 191
District attorney to prosecute criminal cases 29
Interpreters, appointment 55
Judges 53
—appointing clerk 55
—candidates for, §175 not applicable to 175
—election 5
—meetings, prescribing rules and regulations 54
—presiding judge 53
—law library, ex-officio board member 57
—reports 54
—removal proceedings 11
—rules and regulations, prescribing 54
—§175 not applicable to 175
—street traffic advisory board, member of 61
—term of office 5
Powers and duties 53
Stenographers, appointment 55

MUNICIPAL CORPORATION
San Francisco continuing as 1

MUNICIPAL ELECTIONS. See Elections

MUNICIPAL RAILWAY. See Transportation

MUSEUMS
California Palace of Legion of Honor, see that title
M. H. de Young Memorial Museum, see that title
Natural History, authority of Academy of Sciences over........ 52
Purchase of works of art, etc........ 88

MUSIC
Control of expenditure of appropriations for........ 46

NAMES
Ballots, candidates names on........ 175
Buildings, naming of........ 52
Boroughs, of 195
Candidates, of, printing on ballot........ 175
City and County, name of........ 1
Initiative petition, to, ... 179
—withdrawal of names........ 180
M. H. de Young Memorial Museum........ 51
Office, of, on ballots
—on withdrawal of candidacy........ 175
Recall petition, to,........ 179
—withdrawal of names........ 180
Referendum petition 179
—withdrawal of names........ 180
Sponsors of candidates, of, to be mailed to voters........ 176

NATURAL HISTORY MUSEUM
Academy of Sciences, authority over........ 52

NAVIGATION. See Harbor

NAVY. See Army and Navy, War, Veterans

NEGLECT
Discharge for inattention to duty........ 154

NEUTER GENDER
Words in masculine, as including neuter........165.2 (A)

NEWSPAPERS. See Advertising, Publication
Civil service examinations, advertising........ 144
Publication, for official........ 224

NIGHT UNIVERSITY
Authority to establish, etc........ 9

NOMINATIONS
Board of education, members of........ 134
Health service board, members of........ 172.1
Municipal offices 175

NOTICES
Applicants for employment, to, of character of position........ 148
Appointees, notice of removal........ 11
Bids, inviting 224
Boroughs, of hearing as to........ 194
Civil Service commission
—changes in offices or positions, of........ 143
—rates of compensation, establishing or changing........ 143
—suspension or dismissal proceedings, of,........ 154
Departments, to, of promotional examinations........ 144

SECTION

NOTICES—(Continued)
Employment, of termination of 148
Hearing of charges against officers or employees 154
—copy of charges to elective officer, etc. 11
Initiative petition, to signers of 180
Master plan, notice of hearing on amendment 116
Publication
—change in civil service commission's rules 141
—ordinance, notice of passage 15
Recall petition, to signers of 180
Referendum petition, to signers of 180
Removal of appointees, notice of 11
Rules of civil service commission, notice prior to change in 141
Special meetings, of 10, 19 (g)
Suspension of officers, notice to supervisors 11
Zoning proceedings, in 117, 117.1

NUISANCES
Borough powers respecting 195
Buildings as 38

NUMBERS
Candidacy declaration, limitation on words in 175
Classified positions, use of numbers assigned to 141
Copies of election arguments of 183
Pages, of, for election arguments and measures 183
Publications in official newspaper, of 224
Signatures, of,
—to recall petition 182
—to referendum or initiative petition 179
Sponsors of candidates 175
Voters, of, signing protest of ordinances 179
Words, of
—ballot, statements on 184
—recall statements 183

NURSES
Civil service, excepted from 142
Health service system, choice of nurse 172.1
Medical care as including services of 172.1

OATH AND AFFIRMATION
Affidavits, see that title
Candidacy, withdrawal of 175
Claims for damages, verification of 87
Initiative petition, denial of signature to 180
Power to administer
—borough clerk 201
—borough controller 200
—secretary or actuary of retirement board 159
Recall petition, denial of signature to 180
Referendum petition, denial of signature to 180
Sponsors, of, certifying to candidate's qualifications 175

OATH OF OFFICE
Civil service commissioners, of 140

SECTION

OBJECTIONS
Registrar, of
—to declaration of candidacy........ 175
—to sponsor's certificate........ 175

OCCUPATION. See also Employment
Ballots, designating candidates occupation on........ 175
Sponsors of candidates, voters to be informed of........ 176

OFFICERS
Absence from state........ 6
Accounts and financial reports........ 64
—controller, power respecting........ 64
Actions against, city attorney to represent........ 26
Advice by city attorney........ 26
Appointing officer, see Appointments
Apointments, see that title
Assessor, see that title
Assistants, see title of particular officer
Board of education, see that title
Board of law library trustees, see that title
Board of supervisors, see that title
Boards generally, see Boards
Bonds, official........ 8
—approval by city attorney as to form........ 26
—assessor........ 28
—borough officers, of........ 198
—city attorney........ 26
—custody of........ 67
—district attorney........ 29
—harbor commissioners........ 47
—health service board, members of........ 172.1
—liability on, approval, allowance or payment of unauthorized demand........ 86
—mayor, of........ 25
—public defender........ 33
—sheriff........ 32
—supervisors........ 10
—sureties, periodic investigation of........ 67
—treasurer........ 31
Borough council........ 197
Charter as affecting existing powers and duties........ 2
Chief administrative officer, see that title
City attorney, see that title
Clerks
—board of supervisors, of,........ 12
—county, see County Clerk
—municipal court, clerk of, see Municipal Court
Commissioners, see Commissions and Commissioners
Compensation
—annual salary ordinance........ 73
—appointive, erstwhile elective officers........ 62
—assessor........ 28, 151.1
—charter as affecting compensation at effective date........ 2
—chief administrative officer........ 59, 151.1
—city attorney........ 26, 151.1
—civil service commissioners, of........ 140

OFFICERS—(Continued)
—controller 63, 151.1
—director of public works 106, 151.1
—district attorney 29, 151.1
—effect of charter 2
—emergencies, deductions during, see Emergencies
—fire department, members of, see Fire Department
—harbor commissioners 47, 151.1
—harbor master 48 (f), 151.1
—how fixed 71
—increases, when and how fixed 71
—judges of municipal court 53
—mayor 25, 151.1
—police officers 35.5
—probation officers 58, 151.1
—public defender 33, 151.1
—public utilities commissioners 120
—sheriff 32, 151.1
—superintendent of schools 136, 151.1
—supervisors 10, 151.1
—treasurer 28, 151.1
—when paid 85
Consolidation of counties, continuation of officers on 189
Continuation in office
—city clerk after consolidation of boroughs 201
—consolidation of counties, on 189
Controller, see that title
Coroner, see that title
County clerk, see that title
County officers, powers of 18
Deputies, see that title
Designating officer to exercise undesignated powers 60
Director
—finance and records, of department of 61
—medical director 172.1
—M. H. de Young Memorial Museum, of 51
—property, of, 91
—authority 91
—public health department, of 61
—public welfare 61.6 (6)
—public works, of 106
Discharge of 154
Discourtesy, discharge for 154
Dishonesty, discharge for 154
District attorney, see that title
Election of municipal officers, see Elections
Elective officers
—assessor 5, 28
—city attorney 5, 26
—district attorney 5, 29
—mayor 5, 25
—municipal court judges 5, 53
—public defender 5, 53
—sheriff 5, 32
—supervisors 5

SECTION

OFFICERS—(Continued)
—treasurer 5, 31
Eligibility
—civil service rules governing 141
—recalled officer, of 184
Enumeration 4
Executive of board or commission, see Boards
Fees, payment into treasury 150
Fire department, see that title
—retirement benefits 169, 171
—within terms of retirement system 162
Forfeiture, appointive office in case of candidacy for election 5
Heads of departments, see Departments.
Health service 172.1
Hearing of charges against 154
—superintendent of schools 136
Holding other office 142
Horticultural commissioner, see that title
Ill health, residence outside in case of 7
Immoral conduct, discharge for 154
Inattention to duties, discharge for 154
Incompetence, removal or discharge for 154
Insubordination, discharge for 154
Intemperance, discharge for 154
Judges of municipal court, see Municipal Court
Jury commissioner of superior court as 4
Justification of course in office 183
Laws respecting, power to make and enforce 2
Leaves of absence 153
—for military men 153
Liability
—bond, on 86
—director of public works 113
License collector as officer 4
Mayor, see that title
Misconduct, official, see Misconduct (Official)
Municipal court judges, see Municipal Courts
Notice to
—of hearing of charges against 136, 154
Oath of office, see that title
Police officers, see Police Department
Politics, not to engage in 157
—discharge for engaging in 154
—forfeiture on becoming a candidate for office 5
Powers
—continuance of powers and duties existing when charter effective 23
—department heads, see Departments
—general laws, application of 18
—increasing by supervisors 9
—particular officer, of, see that title
Precinct boards of election officers 177
Probation boards or committees, see that title
Prohibited practices 222
Promotions, see that title

OFFICERS—(Continued)
Public administrator, see that title
Public defender, see that title
Qualifications 7
—particular officer, see that title
Recall 179
—board of education members 134
—harbor commissioners 47
—ineligibility of recalled officer 184
—officers subject to 179
Recorder, see that title
Registrar of voters, see that title
Reimbursement of, recall expenses, for 184
Reinstatement
—military service, after 153
—Red Cross service, after 153.1
Removal and suspension 11, 154
—grounds
—absence from state 6
—for interference with service investigations 152
—nonresidence 7
—harbor commissioners 47
—office vacant in case of removal 6
—particular officers, see title of particular officer
—proceedings 11
—public utility commissioners 120
—superintendent of schools 136
—welfare commissioners 61.1 (4)
Residence qualifications 7
—chief administrative officer 59
—director of planning 116
—removal on cessation of residence 7
—"resident" defined 7
—superintendent of schools 136
—trustees of Palace of Legion of Honor exempt from rule 50
—vacancy where officer ceases to be resident 6
Resignations, rules governing 141
Retirement, see Retirement System
—as precluding further services 163
Retirement system, see that title
Salary standardization, see that title
Schedule of proposed capital improvement projects 69.1
Sealer of weights and measures, see that title
Secretary and jury commissioner of superior court, see Superior Court
Service records of 152
Sheriff, see that title
Statements of receipts and deposits, transmitted to controller and treasurer 82
State officers, municipal elections provisions inapplicable to 175
Superintendent of schools, see that title
Supervisors, see Board of Supervisors
Suspension, see supra this title Removal and Suspension
Tax and license collector, see that title
Term of office, see title of particular officer

SECTION

OFFICERS—(Continued)
Titles, use of 141
Transfer of
—civil service commission's rules to govern 141
—disabled 156
Treasurer, see that title
Traveling expenses 219
Vacancy in office, see Offices
Workmen's compensation 172

OFFICES
Ballots
—designating candidates office on 175
—title of office on 175
Branch offices, on consolidation of counties 189
Civil service, offices included in 142
Consolidation of counties, continuation of offices on 189
Consolidation
—functions assigned by charter to departments 20
—secretary and actuary of retirement board 159
Creation of 143
—ordinance, by 143
Municipal elections provisions, offices excluded from 175
Office hours 220
Official misconduct as disqualifying for office 223
Retirement system, to what offices applicable 165
Title or name of, on ballots 175
—on withdrawal of candidacy 175
Vacancy in office
—appointments to fill 25
—board of law library trustees 57
—board of trustees of California Palace of Legion of Honor 50
—board of trustees of law library 57
—board of trustees of War Memorial 44
—harbor commission 47
—mayor's authority 25
—planning commission, on 115
—recreation commission 42
—trustees of M. H. de Young Memorial Museum 51
—welfare commission 61.1 (3)
—when office vacant 6
—where elected candidate fails to qualify 178
Vacation of, holding double office 142
Warrant and bond office, see that title

OFFICIAL MISCONDUCT. See Misconduct (Official)

OPINIONS
City attorney, of 26
Civil service commission, as to necessity of new positions 143

OPPOSITION
Charter amendment, to, right to present arguments 183
Recall, to, presenting arguments in 183

OPTICAL TREATMENTS
Medical care as including 172.1

INDEX

SECTION

OPTIONS
Candidates, of, as to reading matter on ballots 175
Health service system, as to medical services 172.1
Pension, as to receiving actuarial equivalent 166
Retirement, as to 165.2 (B)
  —members of fire department 169
  —members of police department 166
Retirement system membership 158.1, 166
  —fire department, members of 169
  —membership under 165 or 165.2 (A) 165.2

ORDERS
Civil service commission, of, exempting from classified service 142
Suspension or dismissal, of 154

ORDINANCES AND RESOLUTIONS
Actions, ordering settlement or dismissal 26
Administrative code, enactment and publication 23
Amendment
  —manner 13
  —publication 15
  —salary ordinance, annual 73
Adoption 13
Appropriation ordinance, see Appropriations
Approval or veto by mayor 14
  —ordinances, etc., not subject to veto 185
Authority of City and County 2
Bidding procedure by departments, establishing 95
Bonds of officers and employees, regulating 8
Boroughs, by 195
Borough council, providing planning commission 202
Borough powers, transfer to city and county 196
Budget ordinances, referendum of, prohibited 179
Building set-back lines, ordinances respecting 117
By whom introduced 13
Certification and recording 15
Charter not to affect existing ordinances and resolutions 2
Chief administrative officer, proposal of measures 60
City attorney, preparation or approval as to form by 26
Civilian defense workers, providing benefits for 9
Clearing house representative, designation 84
Codification 17
Committee, reference to and report 13
Department of planning, when referral and report required 116.1
  —zoning ordinances 117
Department heads recommending 20
Effective date 16
  —granting utility franchises or privileges 179
Emergency measures 16
  —declaration in specific section 13, 16
  —excluded subjects 16
  —publication 13
  —referendum of ordinances respecting 179
  —specific statement of emergency 16
  —voting on 16
  —waiver of reference to committee and readings, etc 13

SECTION

ORDINANCES AND RESOLUTIONS—(Continued)
Employees, power to make and enforce ordinances respecting 2
Enacting clause 13
Enforcement, mayor responsible for 25
Exchange of realty, authorization 92
Exercise of rights and powers, regulating 2
Expenditures of money, restrictions on 86
—controller's certificate 86
—invalidity of ordinance, absent certificate of available money 86
File, keeping by clerk of board of supervisors 12
Finality, referendum as effecting 179
Fire prevention ordinances, duties of bureau of fire prevention respecting 38
Franchise, granting
—time from introduction to passage 13
—when effective 16
Index by clerk 12
Initiative measures, to effectuate 179
Insurance furnished by Academy of Sciences 52
Interest for money used in financing improvement 110
Lease, authorization of 93
Leaves of absence, relating to 153
Licenses, regulating issuance and revocation 24
Litigation, compromise of 179
—referendum of ordinances respecting 179
Master plan, adoption, etc 116
Mayor
—approval or veto 14, 185
—proposing ordinances to be submitted to electors 179
—responsibility for enforcement 25
Meetings of supervisors, fixing 10
Municipal code, ordinance deemed confined to single subject 13
Municipal court sessions, as to 191
Notice of passage, publication of 15
Office hours, as to 220
Officers, power to make and enforce ordinances respecting 2
Park lands and buildings, lease or use 41
Passage 13
Planning department, referral and report 116.1, 117
Police, fire signal or telephone, conditions for connection with 61
Positions, creation of 143
Powers of officers, etc., conferring additional 9
Procedure for exercising rights and powers, prescribing 3
Proposed ordinance, publishing notice, copy for inspection 13
Publication 13
—after final passage 15
—codification 17
Public works or improvements
—contract procedure, prescribing 99
—exercise of rights and powers, prescribing procedure 107
—preference to local materials 98
—working conditions on 98
Recommendations
—chief administrative officer, by 60

SECTION

ORDINANCES AND RESOLUTIONS—(Continued)
  —department heads, by 20
  —mayor, by 25
  —utilities commission 133
Reconsideration
  —mayor's action, after 14
  —supervisors, by 14
  —voters' protest, on 179
Recordation 15
Referendum as to 179
  —administrative ordinances 179
  —amended appropriation ordinance 179
  —enumeration of ordinances not subject to 179
Referral to department of planning, when required 116.1
  —zoning ordinance 117
Repeal, ordinances submitted to people 185
Rules and regulations of boards and commissions, publication or posting 19 (a)
Salary ordinances
  —annual 73
  —fixing salary and compensation 151
  —health service board positions and salaries 172.1
  —noting part-time employees on 151
  —referendum of, prohibited 179
  —use of employment classification and numbers 141
Submission to electors 179
Retirement benefits, as to,
  —for employees of Pacific Gas & Electric Company 165.1
  —for part-time or temporary positions 165.2 (A)
Retirement system, to effectuate charter provisions as to 158
Sale of realty, authorization 92
Sidewalks, repair of 108
Single subject, each confined to 13
Special assessments, duties in maintaining accounts, etc., prescribing 110
Special elections 182
Street railway
  —abandonment of lines operated under permit 132
  —notice of intention to acquire 131
  —supplemental permits for extensions, granting 132
  —utilities commission proposing ordinances 133
Streets, acceptance of 108
Supplemental appropriation ordinance 80
  —positions continued or created 73
Suspension of, after voters' protest 179
Tax anticipation notes, authorizing 81
Tax levy 78
  —referendum prohibited 179
Time limit for approval or veto 14
Time when effective 16
Title, effect of incompleteness 13
Transfer of funds 81
Transmission to mayor 14
Traveling expenses, fixing 219

SECTION

ORDINANCES AND RESOLUTIONS—(Continued)
Veto by mayor........ 14
—ordnance approved by voters........ 185
Voters' protest of, reconsideration after........ 179
Zoning, see that title

ORGANIZATION
Boroughs, on consolidation........ 193
Arguments by, on measures submitted to voters........ 183
Religious, see Religion

ORPHANS
Firemen, of, pensions to........ 169

PACIFIC GAS & ELECTRIC COMPANY
Retirement benefits to employees........ 165.1

PALACE OF LEGION OF HONOR. See California Palace of Legion of Honor

PAPERS
Civil service examination papers, right to inspect or copy........ 147.1

PARENTS
Firemen, of, pensions to........169, 170
Police officer, of, pensions to........ 166
—continuation of payment........ 167

PARK DEPARTMENT
Academy of Sciences, direction of improvements........ 52
Commission, see generally Commissions
—appointments 40
—approval of buildings, etc........ 52
—compensation, absence of........ 40
—control of parks........ 41
—M. H. de Young Memorial Museum, providing funds for........ 51
—president ....19(b)
—ex-officio member of trustees of Palace of Legion of Honor........ 50
—ex-officio member of trustees of de Young Museum........ 51
—setting apart grounds for buildings of Academy of Sciences 52
—successors of park commissioners........ 40
—term 40
Compensation of employees........ 40
Director of zoo........ 40
Leases of lands, stadiums or recreation fields........ 41
Secretary 40
Superintendent of parks........ 40

PARKING
Law governing construction........ 107

PARKS AND PUBLIC PLACES
Art commission's authority over structures over or on parks, etc. 46
Automobile parking stations........ 41
Borough powers as to........ 195
—manager's powers as to parks........ 204

SECTION

PARKS AND PUBLIC PLACES—(Continued)
Buildings and structures in 41
—Academy of Sciences, direction and control 52
Law governing improving 107
Streets, see that title
Utilities commission to observe regulations 121
Leases 41
Playgrounds, see that title
Tax for 78

PART-TIME EMPLOYEES. See Employees

PATENTS
Articles, restrictions on purchase of patented 88
Pavement, restrictions on ordering patented 109

PATROL SPECIAL OFFICER
Appointment, etc. 35.10

PAVEMENT
Patented, restrictions on ordering 109
Utilities commission replacing and maintaining 121

PAWNBROKERS
Examining books and premises 24

PAYMENT
Bonds, on, of borough officers 198
—premiums on bonds of health service board members 172.1
Compensation insurance 172
Election officers, grounds for withholding pay of 177
Emergency appointees, of compensation to 149
Fees, payment into treasury 150
Health service fund, to 172.1
Overtime, for, prohibited 150
Pensions, see Pensions, Retirement System
Personal services, for, ... 150
—by warrant 150
Recall, to officer successful on recall election 184
Workmen's compensation 172

PAYROLLS
Approval of, civil service commission's rules as to 141
Certification of, ... 141
Employment classification titles and numbers to be used 141
Health service system employees 172.1
Part-time employees to be noted on 151
Personal services, for 150
Presentation to controller 150
Transmission to civil service commission 150
Verification of 150

PEDDLERS
Examining books and premises of 24

PENAL LAWS
Municipal elections, applicable to 174

PENALTIES
Official misconduct 223

SECTION

PENSIONS
Acturial equivalent, election to receive 166
Borough pensions 213
Children, to
—of firemen 169
—of police officers 166
Exception from compensation standardization 151
Firemen, to 169
—on consolidation of counties 190
Funds
—deposit with treasurer 82
—transfer or loan, limitation on 77, 81
Interest on 166
Parents, to,
—of firemen 169
—of police officers 166
Police department members, of 166
—benefits to family not barred by 166
—consolidation of counties, on 190
—continuation of pensions 167
—termination on cessation of disability 166
Probation officers and employees, application 58
Receipt of, as affecting eligibility to positions 163
Reduction
—by amount of workmen's compensation received 169
—for engaging in gainful occupation 163
Retirement system, see that title
Termination, on cessation of disability 166, 169
Widows, to,
—of firemen 169
—of police officers 166
Workmen's compensation, reduction for 166

PERCENTAGE
Borough, of votes for 194
Retirement allowance, percentage of compensation 168.1
Voters, of, bearing on number of copies of election arguments 183

PER DIEM
Traveling expenses 219

PERMITS. See Licenses and Permits

PERSONAL PROPERTY. See Property

PERSONNEL DEPARTMENT
Civil service commission, as 141

PETITIONS
Borough, for 194
Health service board, for review of decisions of 172.1
Initiative 174, 180
—certification of 180
—expenses of verifying 181
—filing 180
—withdrawal of signature to 180
Municipal elections, for, laws applicable to 174

SECTION

PETITIONS—(Continued)
- Recall 174, 179
  - —defraying expenses of verifying 181
  - —filing with registrar 179
  - —mailing voters reasons stated in 183
  - —revocation of signature to 180
  - —stating grounds 179
- Referendum 180
  - —certification of 180
  - —costs of verifying 181
  - —filing 180
  - —withdrawal of signature to 180

PHARMACIST
- Health service system, choice of pharmacist 172.1

PHYSICAL CONDITION
- Civil service, of applicants for positions in 145

PHYSICAL QUALIFICATIONS
- Fire department, for positions in 145
- Mechanical trades, for positions in 145
- Police department, for positions in 145
- Salvage corps members 38.1

PHYSICIANS AND SURGEONS
- Civil service, excepted from 142
- Health service system 172.1
  - —option in selecting medical services and supplies 172.1
- Medical care, services included in term 172.1
- Police surgeon 35.4, 35.5
- Rates of compensation under health system 172.1
- Signing petition for review of health board decisions 172.1

PLACE
- Ballots, on, for candidates names 175
- Civil service examinations, for 144
- Hearing, of charges against officers or employees 154
- Polling places, publication of 174
- Public places, see Parks and Public Places
- Registrar's hearing, on signatures to initiative, etc., petition 180

PLANETARIUM (PROPOSED)
- Academy of Sciences, authority over 52

PLANNING. See City Planning
- Borough, planning commission of 202

PLANS
- Medical care under health service system 172.1

PLANTS
- Outside boundaries, acquisition and operation 2

PLATS
- Subdivision plats, submission to city planning commission 118

PLAYGROUNDS
- Borough powers as to 195
- Construction and control over 42
- Recreation department, see that title
- Tax for 78

SECTION

PLURAL
  Singular, as including 165.2(A), 168.1(A)

POLICE COMMISSION. See Police Department

POLICE COURT
  Consolidation of counties, transfer of cases on 191

POLICE DEPARTMENT
  Absence
    —from state 6
    —military leave as part of service 35.5
  Age of applicants for positions 145
  Ex-service men 153
  Bureau of criminal information 35.4
  Bureau of personnel 35.4
  Bureau of special services 35.4
  Captains
    —compensation 35.5
    —inspector, captain of 35.4
    —promotion to rank of 146
  Chief of police
    —appointment 35.1
    —bureau of inspectors, detailing members for duty in 35.3
    —compensation 35.5
      —salary standardization, exclusion from 151.1
    —contingent fund, disbursing 35.8
    —designating members to fill positions 35.4
    —disturbance of peace, powers to suppress 35.7
    —permits, refusal or revocation 35.6
    —police surgeon, appointment of 35.4
    —powers and duties
      —designating officer to serve subpoenas 21
      —examining books and premises of pawnbrokers, etc 24
    —resistance to law or authority, powers respecting 35.7
    —special police officers, appointment and removal 35.9
    —street traffic advisory board, member of 61
    —suppression of riots, tumult, etc., powers for 35.7
  Citizens, members to be 7
  Commission
    —appointment of commissioners 35
    —chief of police, appointment 35.1
    —compensation of commissioners 35, 151.1
    —contingent fund, allowances and payments from 35.8
    —holidays with pay, designating 35.5½(i)
    —patrol special officers, appointment and removal 35.10
    —report of members for roll call, etc., requiring 35.5½(h)
    —retirement questions, determining 168.1(c)
    —secretary to commission 35.4
    —service more than basic week, authority to require 35.5½(f)
    —successors in office of commissioners in 1944 35
    —term of office of commissioners 35
    —traffic regulation 35
  Compensable injuries to police officers 172
    —in performing duties for private employers 172
  Compensation 35.5
    —basic week 35.5½(b)

POLICE DEPARTMENT—(Continued)
—effective date of increase 35.5
—holidays, service on 35.5½ (i)
—"member" within section defined 35.5½ (a)
—normal day off, compensation for service on 35.5½ (e)
—report for roll call, etc., preceding duty, uncompensated 35.5½ (h)
—service exceeding basic week, compensation for 35.5½ (d) (f)
—standardization, exception from 151.1
—vacation service, compensation for 35.5½ (e)
Compensation insurance benefits 172
Connection with signal system 61
Contingent fund 35.8
Continuance of positions and incumbents 35.2
Death in line of duty, benefits to family 166
Disability leaves, noninterference of section with 35.5½ (g)
Disciplinary measures 155
Examinations
—exempt designations 35.4
—inspector not subject to competitive examination 35.3
—for police service 146
—right to take, inspector 35.3
Fire marshal calling police to assist 37
Inspectors and assistant inspectors 35.3
—punishment 35.3
—school traffic patrols, inspector of 35.3
Limitation on size of force 35.5
Members of
—purpose of retirement system, for 162
—qualifications 7
Patrol special officers 35.10
—disposal of beat or territory 35.10
—compensation benefits to 172
—qualifications 35.10
Permits, refusal or revocation 35.6
Physical qualifications for positions in 145
Probationary period of appointments 148
Promotions in 146
—credits 146
Property clerk 35.4
Punishment, inspector 35.3
Qualifications of 145
Ranks in 146
Reinstatement on cessation of disability 166
Removal
—cessation of residence 7
—return to civil service rank and position 35.4
Residence requirements 7
Retirement on pension 166
—benefits 166-168
—consolidation of counties, allowances and credits on 190
—salary base, former rank of corporal 166.1
Retirement system, see Retirement System
Salary standardization, exempt from 151.1

SECTION
POLICE DEPARTMENT—(Continued)
Sergeant 35.4
—compensation 35.5
—promotions to rank of 146
Service records 152
Sick leaves, noninterference of section with 35.5½ (g)
Special police officers 35.9
Surgeon
—appointment 35.4
—compensation 35.5
Time off each week 35.5½ (c)
Transfers because of age or other incapacity 156
Vacations 35.5½ (e)
Week, basic 35.5½ (b)
What department consists of 35
Years of service, computation of 35.5

POLICEMEN. See Police Department

POLICE POWER
Licenses and permits 24

POLICE SURGEON. See Police Department

POLITICS
Appointments to office, avoidance of political situations 140
Civil service examinations, avoidance of politics 145
Forfeiture of appointive office or employment on becoming candidate 5
Discharge for engaging in 154
Prohibition of political activity 157

POLLING PLACES
Election officers 177
—performance of duties at polling places 177
Publication of 174

POPULATION
Borough, population requisite to organization of 193

POSITIONS
Abolishment by ordinance 143
Civil service
—positions included in 142
—promotions 146
Classification by civil service commission 141
Consolidation of secretary and actuary of retirement board 159
Creation of 143
—ordinance, by 143
Health service board, under, furnishing supervisors list of 172.1
Limited tenure positions 145.1
Reinstatement
—after military service 153
—following Red Cross service 153.1
Requisition for persons to fill 148
Retirement as precluding appointment to 163

SECTION

POSITIONS—(Continued)
Retirement system
—positions included in 165
—temporary positions, 165.2 (A)
Schedules of compensation, positions included in 151
Servicemen, continuation in positions 172.1
Supervisors determining number in department 9
Titles of, to be used in reports, records, etc 141
Transfer of disabled employee to other position 156

POSTING
Boroughs, of petition respecting 194
Election precincts and polling places 174
Eligible list 147.1
Notice, of promotion examinations 144

POWERS
Boroughs, of 195
—clerk 201
—controller of 197
—council, of 202
—manager 197, 204
—planning commission, of 202
—president 199
—transfer to City and County 196
Charter specification not exclusive 2
City and County, of
—actions, appearance in, suing and defending 2
—city, possession of powers appropriate to 2
—county, possession of powers appropriate to 2
—gifts, power to receive and carry out purposes of 2
—how exercised when not prescribed by charter 2
—laws, making and enforcing 2
—leasing property, power respecting 2
—method of exercising
—ordinance or resolution regulating 2
—statutory procedure, when controlling 3
—nonexclusiveness of specification or enumeration 2
—outside boundaries, plants, works, etc. 2
—perpetual succession, City and County to have 1
—proceedings, appearance in, suing and defending 2
—property, general powers respecting 2
—public works, see Public Works
—public utilities, see Public Utilities
—purchase of property 2
—specification or enumeration not exclusive 2
—statutory procedure for exercising as controlling 3
Civil service commission 140
—appointments, in making 141
—correction of civil service rating 147.1
—legal proceedings, as to 141
Existing rights, titles, liabilities unaffected by charter 2
Health service board, of 172.1
—president of 172.1
Particular officer, board or commission, see that title

PRAYER
  Healing by, exemption from health service 172.1

PRECINCT BOARD OF ELECTION OFFICERS
  Appointment by registrar 177
  Inspectors of 177
  Performance of duties at polling places 177

PRECINCTS
  Boards, see Precinct Board of Election Officers
  Publication of 174
  Voting precincts, establishment of 173

PREFERENCES
  Ballots, as to location of names on 175
  Civil service examinations, on 145
  Limited tenure appointees, right of 145.1
  Local materials, preference in awarding contracts 98
  Veterans, of, for appointments 153

PREMIUMS
  Bonds, on, of members of health service board 172.1
  Compensation insurance 172

PRESIDENT
  Boards, appointment of 19(b)
  Board of supervisors, of 10, 19(b), 159
  Borough president 198
  Commissions, appointment of 19(b)
  Health service board, of 172.1
  Supervisors, see Board of Supervisors

PRESIDENTIAL PRIMARY ELECTION
  Candidates at, § 175 not applicable to 175

PRESUMPTIONS
  Initiative petition, conformity to law 180
  Recall petition, supporting 180
  Referendum petition, as to sufficiency of 180

PRIMARY ELECTIONS
  Candidates at, § 175 not applicable to 175
  Declaration of policy, submission of petition for 182
  Initiative petition, submission of 182
  Recall petition, submission of 182

PRINCIPLES
  Religious principles, see Religion

PRINTING. See Publication
  Audit of controller's books, etc. 68
  Ballots 176
    —names of candidates on 175
  Charter amendments, printing arguments opposing 183
  Competing measures on ballots 185
  Initiative, measures and arguments 183
  Material to be mailed to voters, of 176
  Ordinances, publishing in book form 17
  Recall, arguments 183
  Referendum, measures and arguments 183
  Special elections, materials and arguments for 183

INDEX

SECTION

PRISONERS
Discharge on furnishing bail ... 30

PRIVILEGES. See Franchises
Public utilities, to, effective date of ordinances granting ... 179

PROBATION
Appointment on ... 148

PROBATION BOARDS OR COMMITTEES
Adult and juvenile probation board or committee to continue state-granted powers ... 58
Appointment of probation officers and employees ... 58
Civil service, application ... 58
Compensation of officers and employees ... 58
Officers, members as ... 4
Pension and retirement provisions, application of ... 58

PROBATION OFFICERS
Adult probation officer, appointment, etc ... 58
Juvenile court, probation officer of ... 58

PROCEEDINGS
Court proceedings, see Actions and Proceedings
Dismissal proceedings ... 59, 136, 154
Recall, for ... 179
Suspension proceedings ... 154

PROCESS
Borough
—controller's powers as to process ... 200
—president, process to be served on ... 198
Mayor, service on ... 25

PRODUCTION OF BOOKS
Departmental books, compelling production ... 21

PROFESSION
Candidate, of, designating on ballot ... 175

PROFESSIONAL CONDUCT
Statutory standards to control services under health service system ... 172.1

PROFESSIONAL MEN
Civil service, excepted from ... 142

PROHIBITED PRACTICES
Officers and employees, of ... 222

PROJECTS
Planning department, submitting schedules of improvement projects ... 69.1

PROMOTIONAL EXAMINATIONS
Civil service commission to provide for ... 146
Fire departments, in ... 146
Police department, in ... 146
Returned service men, for ... 146.1

PROMOTIONS
Captain of police, to rank of ... 146
Certification of names on eligible lists ... 148

SECTION

PROMOTIONS—(Continued)
Civil service, basis of 146
Examinations for 146
—credits on 145
—notice of 144
—wrongful interference with 147
—returning servicemen, substitute for 146.1
Leave of absence to prepare for 153
Lieutenant of police, to rank of 146
Noninterference by supervisors, etc 22
Police department, in 146
Rules of commission to govern 141
Sergeant of police, to rank of 146
Service records 152
Teachers, of 135
Veterans, examination credits to 145

PROOF
Initiative petition, of infirmity in 180
Injuries, of, to firemen seeking retirement 169
Recall petition, nonconformity to law 180
Referendum petition, of insufficiency of 180

PROPERTY
Academy of Sciences, buildings erected by 52
Airport, leasing lands devoted to 93
Bequests, power to receive 2
Boards, power as to property 19(a)
Boroughs, of 194
—powers as to public property 195
Charter, effect on 2
City and County, ownership of 2
Commissions, power as to property 19(a)
Consolidation of counties, recording title instruments on 192
Conveyances, power to make 2
Construction operations, department head's authority 88
Department of property 91
Director of property
—appraisers, employment 91
—exchange of realty 92
—lease of realty 93
—records and maps, maintaining 94
—report and recommendations 94
—sale of realty, duties 92
Exchange
—realty, of 92
—used materials, etc 88
Exposition auditorium, director of property, management of 91
Gifts and donations, power to receive, etc 2
—title to 19(d)
Leasing property, see also Lease
—emergency measure prohibited 16
—harbor commission, by 48(e)
—parks 41
—powers respecting 2
Outside boundaries, acquisition and maintenance 2

SECTION

PROPERTY—(Continued)
- Powers of City and County respecting 2
- Purchase
  - —ordinance, emergency measure prohibited 16
  - —power to make 2
- Purchase of materials, supplies and equipment
  - —advertisement for bids 95
  - —approval of bills or vouchers 89
    - —withholding 88
  - —bids 88, 89
    - —nonnecessity for bids to purchase from government or state 88.1
  - —contract
  - —by whom purchases made 88
  - —certificate of available balance 88
  - —contract
    - —approval of purchaser and chief administrative officer, when required 95
    - —certificate of available balance 88, 88.1
    - —necessity, regulations 88
    - —notice of award 89
    - —notice inviting bids, publication 89
    - —purchase from government or state 88.1
  - —inspection of purchases 88
  - —notice of award of contract, publication 89
  - —$1000 or more involved, requisites where 88
  - —operations outside boundaries, department head purchasing for 88
  - —orders, purchase 88
    - —certificate of available balance 88, 88.1
    - —considering allotted portions of appropriation items 72
  - —patented or priority articles, restrictions on purchase 88
  - —requisitions, noninterference by supervisors, etc 22
  - —section 88 as controlling where in conflict with §95 95
  - —specifications furnished by department, conformity with 88
  - —standardization of materials, etc 88
  - —$2000 or more involved, requisites where 88, 95
    - —signature of chief administrative officer 88
  - —warrants against purchaser's revolving fund 90
- Purchase of realty
  - —appraisal and report 91
  - —director of property, authority and duties 91
  - —ordinance for purchase or sale—emergency measure, not to be passed as 16
- Real estate department 61
- Recommendations respecting property not in use 94
- Requisitions, noninterference by supervisors, etc 22
- Rules and regulations, prescribing .... 19 (a)
- Sales
  - —advertising for bids 92
  - —director of property, authority and duties 92
  - —ordinance authorizing sale 92
    - —emergency measure prohibited 16
  - —personality unfit for use 88
  - —powers respecting 2

SECTION

PROPERTY—(Continued)
—proceeds, use and application 92
—realty, ... 92
—director of property, authority 91
Title
—city attorney to examine and approve title to realty acquired 26
—continuing title when charter effective 2
Trust, power to receive property in 2

PROTEST
Ordinances, of, by voters 179

PUBLIC
Funds, see that title
Hearings or meetings open to public
—civil service commission 140
—health service board, service matters 172.1
—in police or fire departments 155

PUBLIC ADMINISTRATOR
Appointments, attorneys 61
Department of finance and records, inclusion in 61
Officer, as 4

PUBLICATION. See also Printing
Board rules and regulations .... 19(a)
Borough, of petition respecting 194
Charter, of 17
Civil service examinations, time, place etc., for 144
Clerk of board of supervisors, responsibility of 12
Commission's rules and regulations .... 19(a)
Elections precincts and polling places 174
Eligible list 147.1
—correction of mistakes in 147.1
Journal of supervisor's proceedings 10
Master plan, publishing 116
Notices
—master plan, hearing on amendment 116
—ordinance, notice of passage 15
Notices for bids 224
—public works and improvements, see that title
Notice of award of contract 89
Number of publications required 224
Ordinances and resolutions 15, 17
—clerk's responsibility 12
—notice of title and subject 13
Proposed budget 72
Rules and regulations of boards, of, ... 19(a)
Rules of civil service commission, of change in 141
Schedules of compensation, of 151
Special meeting of supervisors, notice of 10
Supervisors' calendar of scheduled business 10
Utility rates or fares, notice of hearing on 130

PUBLIC DEFENDER
Assistant attorneys
—civil service provisions, exemption from 34.1
—qualifications 34

SECTION

PUBLIC DEFENDER—(Continued)
Assistants and employees,
—appointment and removal 33, 34
—civil service provisions, application of 34.1
Bond, official 33
Compensation 33, 151.1
Duties 33
Election 5
Elective officer 5, 33
Qualifications 33

PUBLIC EMERGENCIES. See Emergencies

PUBLIC FUNDS. See Funds

PUBLIC HEARINGS
Civil service commission, of 140
Health service board, matters relating to health service 172.1
Police and fire departments, in 155

PUBLIC IMPROVEMENTS. See Public Works and Improvements

PUBLICITY
Budgeting and control of expenditures for 60
Master plan 116

PUBLIC NUISANCES
Buildings as 38

PUBLIC PLACES. See Parks and Public Places

PUBLIC TUMULT
Suppression 35.6

PUBLIC UTILITIES
Accounts, keeping 64
Acquisition of public utilities
—Market Street Railway unification, see that title
—valuation work to be done by utilities commission 121
Appraisal of value and useful life of property 128
—Market Street Railway, exemption 119.1 (3)
Appropriation to meet deficiency 74
—exemption of unified street railway 119.1 (3)
Bonds
—acquisition, construction or completion, for 104
—additions exceeding revenue, for 74
—interest accruing pending construction or extension, how paid 102
Budget estimates, see Budget
—estimate exceeding estimated revenue, limitation on approval of 74
—exemption of unified street railway 119.1 (3)
Budget
—increase of estimated expenditure prohibited 72
Claims arising out of operation, settlement and adjustment 130
Collection of rates and charges, authority respecting 130
—Market Street Railway, exemption 119.1 (3)
Commission, see Public Utilities Commission

SECTION

PUBLIC UTILITIES—(Continued)
- Construction, etc.
  - —authority of commission 121
  - —manager, recommendation 121
- Contracts 121
- Deficit, appropriation to meet 74
- Departments under commission, see Public Utilities Commission
- Depreciation, computation 128
  - —Market Street Railway, exemption, ... 119.1 (3)
- Deputies, planning commission, designation as ex-officio member 115
- Discontinuing service to delinquent consumers 130
- Employees, ... 125
  - —aliens 125
  - —leased utilities, employees in operative service on 125.1
  - —newly acquired utilities, employees on 125.1
  - —residence in City and County 125
    - —leased utilities, employees on 125.1
- Expenses, general salaries and expenses apportioned 122
- Foreign trade zones as public utilities, ... 121
  - —purposes and order of use 127
    - —exemption of Market Street Railway 127
  - —reconstruction and replacement funds 128.1
    - —exemption, Market Street Railway 119.1 (3)
  - —separate for each utility 127
  - —surplus fund 127
    - —transfer to general fund, when 129
      - —Market Street Railway, exemption 119.1 (3) (6)
- Harbor commission, utilities vested in 47
- Head of utility
  - —appointing officer under civil service, designation as 20
  - —materials and supplies, duties respecting 20
  - —requisitions for supplies, issuance 20
- Hetch Hetchy project, department under utilities commission 122
- Interest on bonds during construction or extension 102
  - —authority of supervisors 123
  - —referendum 123
- Manager
  - —appointment of 124
  - —compensation, ... 124, 151.1
  - —heads of departments, etc., appointment and removal 124
  - —planning commission, ex-officio membership 115
  - —powers and duties 124
  - —recommendations to commission 121
- Market Street Railway, see Market Street Railway Unification
- Ordinances relating to, effective date of 179
- Outside boundaries, acquisition and operation 2
- Policy of acquisition by City and County 119
- Public utilities commission, see that title
- Rates and charges
  - —fixing, changing, etc. 130
    - —hearing before change 130
    - —Market Street Railway, exemption 119.1 (3)
- Recommendations of manager 121

PUBLIC UTILITIES—(Continued)
- Reconstruction and replacement
  - —funds for ... 128.1
    - —Market Street Railway, exemption ... 119.1 (3)
- Report of commission on acquisition of utility, procuring ... 119
- Revenues
  - —attorneys, payment from ... 126
  - —payment into fund ... 127
    - —Market Street Railway, exemption, ... 119.1 (3)
- Revolving funds ... 75
- Sale of
  - —authority of supervisors ... 123
  - —referendum ... 123
- Service outside corporate limits, rendition of ... 130
- Street railways, see Transportation
- Tax to meet deficit ... 130
  - —Market Street Railway, exemption ... 119.1 (3)
- Outside boundaries, power to acquire and maintain ... 2

PUBLIC UTILITIES COMMISSION
- Accounts of utilities ... 64
- Airport
  - —jurisdiction over ... 125
  - —lands, leasing of ... 93
- Appointment of commissioners ... 49
- Appointments by manager, approval by commission ... 124
- Bureaus, creation ... 122
  - —engineering ... 122
- Cable cars, precedence of section relating to ... 119.3
- Contracts ... 121
- Creation ... 120
- Departments under ... 122
  - —airport ... 122
  - —heads of departments, appointment ... 124
  - —Hetch Hetchy project ... 122
  - —municipal railway ... 122
  - —water department ... 122
- Fees, payment of ... 121
- Inspection rules, commission subject to ... 121
- Leasing of land used for water department purposes ... 93
- Litigation for or against commission
  - —city attorney's authority respecting ... 126
  - —counsel
    - —compensation ... 126
    - —detailing by city attorney ... 126
    - —special counsel ... 126
- Manager of utilities, appointment ... 124
- Market Street Railway unification, duties respecting, see Market Street Railway Unification
- Members ... 120
  - —appointment ... 120
  - —compensation ... 120
  - —recall ... 120, 179
  - —removal and suspension ... 120
  - —term ... 120

SECTION

PUBLIC UTILITIES COMMISSION—(Continued)
Ordinances, observance of 121
Powers and duties 121
—rates and charges, fixing and changing 130
—Market Street Railway, exemption 119.1 (3)
—regulating street railroads 133
—service outside corporate limits, provision for 130
—settlement of claims 130
Proposing ordinances respecting street railways 133
Public works department, exclusion from 61
Rates and charges, fixing and changing 130
—Market Street Railway, exemption 119.1 (3)
Recall, subject to 179
Regulations of public works department, observance of 121
Report on acquisition of utility, procuring 119
Salaries and expenses, apportionment among utilities 122
Street railways, duties respecting, see Transportation
Valuation work incidental to purchase 121

PUBLIC WAY
Planning department, referral of ordinances as to 116.1

PUBLIC WELFARE DEPARTMENT
Chief executive of 61.1 (6)
Citizens' emergency relief committee, transfer of functions of 61.1 (7) (8)
Commission, welfare, ... 61.1 (1)
—appointment 61.1 (1)
—appointive power 61.1 (6)
—compensation, absence of 61.1 (2)
—membership 61.1 (1)
—persons eligible 61.1 (2)
—powers 61.1 (5)
—removal 61.1 (4)
—term of office 61.1 (3)
—vacancies, filling, ... 61.1 (3)
County welfare department, exercising functions of 61.1 (8)
Director, appointment, powers and duties 61.1 (6)
Employees, civil service applicable to 61.1 (7)
Establishment 61.1 (1)
Functions 61.1 (8)

PUBLIC WORKS AND IMPROVEMENTS
Accounting, cost, ... 95
Advertisement for bids
—liquidated damages, specification as to 97
—ordinance regulating 99
—posting or publication 95
—number of publications 224
—price, specifications as to 97
—progressive payments, specifying 96
—readvertisement in case of collusion 100
Alterations and extras, authorization 97
Appraisal and report by director of property 91
Bids and bidding 95
—collusion, effect of 100
—comparing bids 97

SECTION

PUBLIC WORKS AND IMPROVEMENTS—(Continued)
  —departments, bidding by....... 95
  —ordinance regulating advertising....... 99
  —preference to local materials, consideration in awarding contract....... 98
  —rejection of lowest bid, report of....... 95
  —security on filing, ordinance requiring....... 99
Bond, faithful performance....... 97
  —ordinance requiring....... 99
Bonds, issuance, see Bonded Indebtedness
Borough powers as to....... 195
Charter not to affect pending proceedings....... 2
City engineer....... 106
Contract....... 95
  —$500 emergency construction on unimproved or unaccepted street....... 95
  —gross price or cost per unit of work basis, letting for....... 97
  —joint approval, when required....... 95
  —liquidated damages for delay in completion....... 95
  —nullification for collusion, effect....... 100
  —ordinance regulating award of, etc....... 99
  —progressive payments, provision for....... 96
  —signature, authority respecting....... 95
  —time for starting and completing work, fixing....... 97
  —working conditions, provisions as to....... 98
Contractor
  —bond, performance....... 97
    —ordinance regulating....... 99
Delay in completion, act of God, delay due to....... 97
Department of public works, see that title
Departments, execution of work by....... 95
  —unit costs, report to and audit by controller....... 95
Director....... 106
  —compensation.......106, 151.1
  —report of cost, amount to be levied and appropriation....... 110
Emergency, construction, etc., in case of....... 95
Estimates as prerequisite....... 95
Extension of time for completion, liquidated damages, collection of....... 97
Extras, authorization of....... 97
Laborers, contract provisions respecting....... 98
  —residence requirements, waiver....... 98
  —security for payment, ordinance requiring....... 99
Less than $2000, performance under contract or employment of labor....... 95
Limited tenure positions, termination for lack of work....... 145.1
Ordinance
  —preference to local materials....... 98
  —procedure
    —authority respecting....... 107
    —prescribing....... 99
  —security, requiring....... 99
  —working conditions....... 98
Outside boundaries, acquisition and operation of....... 2

SECTION

PUBLIC WORKS AND IMPROVEMENTS—(Continued)
Planning department, submitting schedules of improvement projects 69.1
Preference to local materials 98
Procedure, application of statute 107
Progressive payments, provision for 96
Publication of notices as to 95, 224
Revolving fund, public improvement 103, 110
§88 as controlling where in conflict with §95 95
Special assessments
—law governing levy 107
Streets, see that title
$2,000 procedure where expenditure exceeds 95
Unit cost basis, proceedings where work exceeds estimated amount 97
Working conditions 98

PUNISHMENT
Disciplinary, of members of police or fire department 155

PURCHASER OF SUPPLIES
Appointment and removal 61
Contracts, authority to sign 95
Duties 88
Garage and repair shop, central, authority over 88
Inspection of purchases, requiring and making 88
Inventory of materials, supplies, and equipment 88
Procedure 89
Purchasing department, to administer 61
Rejection of bids and readvertising 95
Report of loss of or damage to property 88
Revolving fund, purchaser's 90
Specifications and tests, establishment 88
Storerooms, authority over 88
Surplus in department, requiring transfer to other department 88
Warehouses, authority over 88

PURCHASE ORDERS
Certification by controller 88, 88.1
—considering allotted portions of appropriation items 72
Purchases by 88

PUCHASING DEPARTMENT
Functions and personnel included 61
Purchaser of supplies, see that title

PURITY OF ELECTIONS ACT
Recall, reimbursement for expenses of 184

QUALIFICATIONS
Borough offices, of candidates for 197
Borough planning commission, of 202
Candidates
—stating in declaration of candidacy 175
—voters to be furnished statements as to 176
Employment, for, under civil service 145
Firemen, of 145

SECTION

QUALIFICATIONS—(Continued)
Limited tenure appointments, for 145.1
Official misconduct as disqualifying for office 223
Policemen, of 145
Ballots, in, ... 184
—preparation by city attorney 184
Civil service examinations, see that title

QUORUM
Borough council, in 198
Defined 19

RAILROADS
Freightage, fixing and regulating .... 48(d)
Regulation and control of railroad used in connection with harbor .... 48(b)
Street railroads, see Transportation

RANK
Fire department, in 146
Police department, in 146
Promotions in 146

RATES
Compensation
—employees of health service board, of 172.1
—fixing schedules of 151
Interest, of, under retirement system .... 165.2 (A)
Medical treatment, for, under health system 172.1
Retirement benefits, of, for retired officers 158.1
Retirement fund, of contributions to .... 168.1 (I)
Retirement system
—rates of contribution for members 160

RATIFICATION
Rules as to leave of absence, of 153

REAL ESTATE DEPARTMENT
Functions and powers 61

REAL PROPERTY. See Property

RECALL
Appropriation of funds for 181
Arguments 183
—filing with registrar 183
—mailing to voters 183
—presenting copies of to registrar 183
—printing 183
Ballots
—form of 184
—mailing to voters 183
Borough recall 215
Election, time for 182
Expenses, reimbursement for 184
General laws applicable to 174
Grounds for, petition to state 179
Ineligibility of recalled officer 184
Informalities in recall election 186
Majority vote on 184

RECALL—(Continued)
  Mayor, submission of arguments by 183
  Officers subject to 179
    —public utility commissioners as subject to 120
  Petition 179, 180
    —certification of 180
    —filing 179, 180
    —laws, rules and regulations governing 180
    —mailing voters reasons stated in 183
    —special election on fixing 174
    —withdrawal of signature to 180
  Procedure for 179
  Reasons for, mailing to voters 183
  Referendum, see that title
  Supervisors, submission of arguments by 183
  Time for 179

RECLASSIFICATION
  Employments, of, by civil service commission 141

RECOMMENDATIONS
  Chief administrative officer, by, see that title
  Ordinances, as to, see that title
  Planning department, of 116
  Zoning administrator, of 117.2

RECONSIDERATION
  Ordinances 14
    —after voters' protest 179

RECORDER
  Compensation where acting as registrar of voters 60
  Consolidation of counties
    —continuance of office on 189
    —records, on 192
  Department of finance and records, inclusion in 61
  Designation to perform duties of registrar of voters 60
  Officer, as 4

RECORDER'S COURT
  Consolidation of counties, transfer of cases on 191

RECORDS; RECORDING
  Borough, controller's office, in 200
  Records, inspection of 198, 200
  Civil service commission, of notifications to 143
  Classified positions, titles and numbers of, to be used 141
  Consolidation of counties, on 192
  Examination 21
  Ordinances, of, 15
    —creating or abolishing positions 143
  Realty owned by City and County 94
  Part-time employees, of 151
  Retirement system, filing option as to membership 165.2 (A)
  Service records 152
  Veteran's disability, of, as basis for civil service credits 145

RECREATION CENTERS AND FACILITIES
Borough powers as to 195
Construction and control over 42
RECREATION DEPARTMENT
Commission
—appointment, term and powers of 42
—powers 42
Superintendent, appointment and term 42
RED CROSS
Leaves of absence to serve in 153.1
Reinstatement of members of 153.1
RE-EXAMINATION
Civil service examination papers, of 147.1
REFERENDUM
Appropriation of funds for 181
Ballots
—form of 181
—mailing to voters 183
Borough referendum 215
General laws applicable to 174
Informalities in referendum election 186
Initiative, see that title
Majority vote on 184
Mayor, submission of arguments by 183
Measures subject to 179
Ordinances 179
Petition 179, 180
—certification of 180
—filing 180
—laws, rules and regulations governing 180
—special election on filing 174
—verification of 179
—withdrawal of signatures to 180
Recall, see that title
Supervisors, submission of arguments by 183
Tax ordinances, prohibited 179
Time for 179
Utilities, lease or sale 123
REFRIGERATION PLANTS
Regulation where used in connection with harbor 48(b)
REFUSE COLLECTION AND DISPOSAL
Initiative ordinance, see Appendix "A"
REFUND
Retirement system, of contributions to 166
REGISTERS
Eligibles to positions, of 145.1
REGISTRAR OF VOTERS
Appearance of signers of initiative, recall or referendum 180
Appointments by 173
Arguments in favor of election petitions, filing 183
Ballots
—mailing to voters 183
—printing and arranging competing measures on 185
Certifications of subscription to candidacy declaration 175

SECTION

REGISTRAR OF VOTERS—(Continued)
Compensation, recorder designated to perform duties 60
Declaration of candidacy, filing with registrar 175
Department of finance and records, inclusion in 61
Duties and powers 173
Election officers, withholding pay of 177
Health service board, election of members 172.1
Initiative petition, filing 180
—withdrawal of names 180
Mailing material to voters 176
Officer, as 4
Precincts, establishment of 173
Precinct boards, appointment of 177
Preservation
—of candidates' declarations 175
—of sponsors' certifications 175
Printing ballots 176
Recall petition, filing 179
—withdrawal of names 180
Recorder, designation to perform duties of 60
Referendum petition, filing 180
—withdrawal of names 180
Regulations governing initiative, referendum and recall 180
Special elections, printing and mailing measures and arguments 183
Sponsors' certificates, providing, filing, ... 175
Withdrawal of candidacy, filing with registrar 175

REGISTRATION OF VOTERS
General laws applicable to 174
Municipal elections 174

REGULATION OF STREET RAILWAY CARS
Initiative ordinance, see Appendix "B"

REGULATIONS. See Rules and Regulations

REHABILITATION
Blighted areas, of, submitting plans to planning department 118

REIMBURSEMENT
Recall expenses, for 184
Special election fund, of 181

REINSTATEMENT
Firemen, on cessation of disability 169
Military service, after 153
Police department members, on cessation of disability 166
Position or employment, to 148
Red Cross, after service in 153.1

RELIEF FUNDS
Fire department 170

RELIGION
Civil service examinations, religious questions excluded 145
Health service system, exemption from 172.1

REMITTANCE
Of fee to treasury 150

SECTION

REMOVAL
Eligible lists, from, for fraud, collusion, etc. 147
Incompetence, of 154
Officers or employees, of 154
—civil service commissioners, of 140
—suspension or removal of officers, see Officers

REMUNERATION. See Compensation, Employees, Officers

REPEAL
Declaration of policy, of approved 185
Initiative measure, of 185

REPORTS
Boards, requiring 19(e)
Borough commission, of, as to boundaries 194
Civil service commission
—competency of probationary employee, as to 148
—examination costs, of 145.1
Classified positions, titles and numbers of, to be used 141
Commissions, requiring 19(e)
Controller, by 65
Department heads, by 20
Department of planning, of, see City Planning
Departments, conduct of 21
Financial, by officers, boards and employees, controller's duty respecting 64
Mayor, to, cost of examinations for emergency appointments 149
M. H. de Young Memorial Museum, report of 51
Planning department, of, see City Planning

REPRESENTATIVES IN CONGRESS
Municipal elections provisions inapplicable to 175

REPRIMAND
Firemen, of 155
Police department members, of 155

REQUISITIONS
Civil service commission, to, for persons to fill positions 148
District attorney's special fund, on 29
Noninterference by supervisors, etc. 22

RESERVOIRS
Joint use with City and County, arrangements for 121

RESIDENCE
Director of planning, of 116
Employees, of, see Employees
Officers, of, see Officers

RESIGNATIONS
Notice of, to civil service commission 143
Rules of civil service commission as to 141

RESOLUTIONS. See Ordinances and Resolutions

RESUMPTION OF OFFICE OR POSITIONS
After military service 153

RETIREMENT AGE. See Retirement System

SECTION

RETIREMENT ALLOWANCES AND BENEFITS. See
Retirement System

RETIREMENT BOARD
Actuary of 159
Appointment of members 49
Appointments by, to office left vacant by retirement 158.1
Approval by, of actuarial tables, rates etc 160
—of table of retirement benefits 171
—rates of compensation for medical service 172.1
—retirement benefits to policemen 168
Board of administration, as successor to 159
Creation of 159
Defined .... 165.2 (A), 168.1 (A)
Fire department members, retirement from service 169
Members of 159
Pension or retirement allowance, reduction of 163
Pensions to parents of firemen, determining 169
Police retirement, determining question of .... 168.1 (C)
Powers and duties of 159
Reports by, of cost of changes in retirement benefits 158
Review by, of decisions of health service board 172.1
Secretary of 159
Successor, as, to other named boards 159
Table of retirement benefits, approval of 171
Workmen's compensation, administration of 172

RETIREMENT SYSTEM
Actuarial tables 160
Age of retirement .... 158.1, 165, 165.2(B), 168
Allowances and benefits
—benefits as including allowances .... 165.2 (A)
—death benefits .... 166, 168.1 (D)
—defined .... 165.2 (A)
—designation of persons entitled to 159
—distinguished from workmen's compensation .... 168.1 (A)
—elective officers, to 158.1
—eligibility to 158
—exception from compensation standardization 151
—family of policemen, to 166, 167
—firemen, to 169, 170
—on consolidation of counties 190
—further service after receipt of 163
—kin of policemen, to 166, 167
—members of police department, to 165, 165.1, 166
—payments intended by terms "allowance", "retirement allowance" .... 165.2 (A)
—reduction for engaging in gainful occupation 163
—benefits on death of police officer 166
—restriction to those provided 166, 167
—teachers, to 165
Application for membership 158.1
Appropriations 160, 169, 170
—to pay preeligibility services 160
Borough employees, for 195
Bureaus, application to 165

SECTION

RETIREMENT SYSTEM—(Continued)
Compensation earnable, defined 165.2 (A)
Compulsory retirement 166, 168, 169, 171
Contributions to 160
—amount of 160
—City and County, by 166, 169
—fund against which chargeable 160
—members of police department, by 166
—payment of 160
—miscellaneous officers and employees, of 165.2 (H)
—rate of 160
—miscellaneous officers and employees, to 165.2 (F)
—refund of contributions 166
—servicemen, by 161
—teachers, by 165
Creation of 158
Definitions of terms, see Words and Phrases
Departments included in 165
Disability, retirement for 165.2 (B)
—members of fire department 169-171
—members of police department 168
Elective officers 158.1
Emergency salary deductions, effect 70.1
Employees included 165
Employment after retirement 163
—miscellaneous officers and employees 165.2 (J)
Fire department 169, 170, 171
—compulsory retirement 169, 171
—conditions applicable to members 158.1
—officers and employees 169
—exception of 165
—members of fire department excepted 165
—persons considered members of 162
—service outside city 162
Funds of 159
—administration by retirement board 159
Harbor commission employees as members 48.1
Meaning of 165.2 (A), 168.1 (A)
Members 158, 165
—as members of health service system 172.1
—elective officers 158.1
—exception of policemen and firemen 165
—miscellaneous officers and employees 165.2 (A)
—option as to membership 165.2 (A)
—elective officers 158.1
—fire department 169
—part-time employees 165.2 (A)
—police officers, of 166
—Pacific Gas & Electric Company's employees 165.1
—teachers 165
Miscellaneous officers and employees 165.2
Offices included 165
Option, as to retirement 165.2 (B)
—of police department members 166
Ordinances effectuating, power to enact 158

SECTION

RETIREMENT SYSTEM—(Continued)
Pacific Gas & Electric Company employees........ 165.1
Part-time or temporary positions........165.2 (A)
Payments, source of funds........165.2 (H)
Police department ....165, 166, 168, 168.1 (A)
—absence in military service........168.1 (H)
—amount of allowances........168.1 (C)
—compulsory retirement 166, 168
—computing service time........168.1 (H)
—conditions applicable to members........ 158.1
—contributions by 166
—death allowances and benefits........166, 168.1 (D)
—exception of members........ 165
—funds for payment of allowances........168.1 (I)
—illness, disability or incapacity........168.1 (C)
—option as to membership........ 166
—persons considered members of........ 162
—reinstatement on cessation of disability........ 166
—retirement age ....168.1 (B)
—retirement benefits 168
—salary base, former rank of corporal........ 166.1
—services for membership........166, 168
—service outside City and County........ 162
Probation officers and employees, application to........ 58
Refund of contributions........ 166
—miscellaneous officers and employments, to........165.2 (F)
Salvage corps members........ 38.1
Services, included or excluded........ 158
—appropriations for premembership services........ 160
—computation of credited service........165.2 (G)
—police or fire service covered by........162, 166, 168, 169, 171
—services after retirement........ 163
Severability clause ....165.2 (K)
State compensation insurance........ 172
—payment of benefits and premiums........ 172
Teachers, as members of........ 165
—benefits to 165
—calculating allowance; credit for night school service ....165.2 (B) (C)
—contributions by 165
Underwriters' Fire Patrol, employees as members of retirement system 38.1

RETURNS OF ELECTIONS
Laws applicable to........ 174

REVIEW
Civil service commission, by, of suspensions or dismissals........ 154
Retirement board, by,........ 172.1
—contracts for medical services, of........ 172.1
—decisions of health service board, of........ 172.1

REVISION
Compensation schedules, of........ 151
Retirement board, by, of medical service fees........ 172.1

SECTION

REVOCATION
  Initiative petition, of signature to........ 180
  Recall petition, of signature to........ 180
  Referendum petition, of signature to........ 180

RIOT
  Chief of police power to suppress........ 35.7

RULES AND REGULATIONS
  Authority of City and County........ 2
  Boards, prescribing ....19(a)
  Boroughs, by 195
  Borough library board, of........ 203
  Civil service commission, of, see that title
  Commissions, prescribing ....19(a)
  Emergency appointments, adoption of rules as to........ 149
  Health service 172.1
  Initiative, governing 180
  Layoffs, as to, unaffected by discharge or suspension........ 154
  Leaves of absence, as to........ 153
  Power to make and enforce........ 2
  Recall, governing 180
  Referendum, governing 180
  Registrar, of, as governing initiative, referendum and recall.... 180
  Retirement board, of, as to health service........ 172.1
  Transfer of disabled employees, as to........ 156

SALARY. See Compensation, Employees, Officers
  Particular officer, of, see title to office

SALARY STANDARDIZATION
  Academy of Sciences, employees in buildings under........ 52
  Application of rates reached by collective bargaining........ 151.3
  Basis of 151.3
  Charter governing salaries subject to standardization........ 71
  Disabled employees, of, upon transfer to other positions........ 156
  M. H. de Young Memorial Museum employees........ 51
  Officers subject to........ 151.1
    —mayor 25, 151.1
    —recorder designated to perform duties of registrar of voters 60
  Positions excluded 151.1
  Powers as to........ 151
  Schools
    —nonteaching and nontechnical employees........ 135
    —superintendent, excepted 151.1
  Steinhart Aquarium employees........ 52

SALARY SURVEY FUND
  Appropriations for 151

SALES
  Officers and employees, prohibited interest in sales........ 222
  Power to sell and convey property........ 2
  Property, sale of, see Property
  Security furnished by depositary bank........ 82
  Utilities, sale by supervisors, restrictions........ 123

SECTION

SALVAGE CORPS. See also Fire Department
  Absence on military service, effect ... 38.1, 38.2
  Compensation ... 38.1
  Creation of division in fire department ... 38.1
  Duties ... 38.1
  Effective date of amendment ... 38.1
  Fire commission, jurisdiction of ... 38.1
  Personnel ... 38.1
  Retirement system, members of ... 38.1
  Tours of duty ... 38.1
  Underwriters fire patrol, members of ... 38.1

SAMPLE BALLOTS
  Mailing to voters ... 176, 183

SAN MATEO COUNTY
  Consolidation with San Francisco county ... 187
  Transportation in and to, furnishing ... 119.1

SCHEDULES OF COMPENSATION AND FEES
  Fixing ... 151
  Health service system, for services under ... 172.1
  Use of class titles and numbers in ... 141

SCHOOLS; SCHOOL DEPARTMENT
  Board of education, see that title
  City board of examination ... 139
  Employees, permanent ... 135
    —civil service provisions, employment under ... 135
    —fixing compensation of ... 151
    —health service system for ... 172.1
    —salary standardization provisions, when applicable ... 135
    —probationary period of ... 135
  Fund, disbursements from ... 135
    —charges against for retirement system contributions ... 160
  Leaves of absence ... 153
    —Red Cross service, in ... 153.1
  Superintendent, see Superintendent of Schools
  Teachers
    —certificates, power of board respecting ... 135
      —city board of examination recommending issuance or revocation ... 139
    —compensation, fixing ... 151
      —board's power respecting ... 135
    —dismissal, restrictions on ... 135
    —employment ... 135
    —health service system ... 172.1
    —permanent employees, when ... 135
    —promotions ... 135
    —removal, manner of ... 135
    —retirement, see Retirement System
    —workmen's compensation ... 172
  Text books ... 138
  Traffic control, inspector of ... 35.3
  Unified school district
    —excess payment of employees, effect ... 135
    —manner of paying certificated employees ... 135

INDEX

SECTION

SEAL
City and County, of ... 2

SEALER OF WEIGHTS AND MEASURES
Officer, as ... 4

SECOND-HAND DEALERS
Examining books and premises of ... 24

SECRECY OF BALLOT. See Ballots

SECRETARIES
Assessor, of ... 28
Board of trustees of California Academy of Sciences, of ... 52
Board of trustees of California Palace of Legion of Honor, of 50
Board of trustees of M. H. de Young Memorial Museum, of ... 51
Board of Trustees of War Memorial, of ... 44
Boards, authority to appoint ... 19(h)
California Academy of Sciences, of board of trustees ... 52
Civil service commission, of ... 150
—certification of eligibles and payrolls ... 141
—examination and approval of payrolls ... 150
Commissions, authority to appoint ... 19(h)
Library commission, of ... 43
Mayor, of ... 25
Park commission, of ... 40
Planning commission, of ... 116
Retirement board, of ... 159
Secretary-jury commissioner of superior court ... 56
Sheriff, of ... 32

SENATORS
Municipal elections provisions inapplicable to ... 175

SENIORITY OF SERVICE
Fire department, in ... 146
Limited tenure appointees, of ... 145.1
Military service, preserved during ... 153
Police department, in ... 146
Promotions, as basis of ... 146
Schedules of compensation, regard to seniority ... 151
Red Cross service, preserved during ... 153.1

SERGEANT. See Police Department
Salvage corps, abolishment of position ... 38.1

SERVICEMEN. See Army and Navy, War, Veterans

SERVICES
Boroughs, power to contract for services ... 175
Consolidation of counties, continuation of services on ... 189
Continuous service ... 161
Health service system, see that title
Like pay for like services ... 151
Meritorious public service, see Credits, Merit System
Overtime, prohibition against payment for ... 150
Retirement system, see that title
Seniority of service, see that title

SECTION

SERVICEMEN
Leaves of absence to 153
Retirement system, membership option 165.2

SERVICE TABLES
Retirement system, for 160

SESSIONS
Municipal court, of, on consolidation of counties 191

SEWERS
Borough powers as to 195
Law governing construction 107
Ordering laying of mains 112
Tax for 78

SEX
Civil service, disregard of sex 148

SHERIFF
Appointing and removal power 32, 34
Attorney for 32
Bailiffs to civil departments of municipal court, detailing 55
Bond, official 32
Compensation 32, 151.1
Consolidation of counties, continuation of sheriff's office on 189
Election 5
Elective officer, as 5, 32
Secretary 32
Term of office 5
Under-sheriff, appointment and removal 32

SICKNESS. See Illness

SIDEWALKS
Borough powers as to 195
Defective, liability in damages from 113
Repair, owner's duty 108

SIGNING; SIGNATURES
Borough documents, president to sign 199
Declaration of candidacy 175
Health service board, petition for review of decisions of 172.1
Initiative petition 179
—not to be questioned after election 180
—withdrawal of signature to 180
Recall petitions 179
—conclusive after election 180
—withdrawal of signature to 180
Referendum petitions 179
—not to be questioned after election 180
—withdrawal of signatures 180
Withdrawal of candidacy 175

SIGNS
Borough powers as to 195

SIMSON AFRICAN HALL
Academy of Sciences, authority, duties 52

SECTION

SINGULAR
Plural, as including 165.2 (A), 168.1 (A)

SIZE
Paper sheets, of, for election measures and arguments 183

SLUM CLEARANCE
Submission of plans to planning department 118

SOCIAL CONSIDERATIONS
Appointments to office, avoidance of social considerations 140

SOLICITING
Political campaigns, in, as detrimental to civil service 157

SPECIAL ASSESSMENTS
Bond issues, see Bonded Indebtedness
Borough powers as to 195, 209
Delinquency, notifying tax collector 107
Installment payments
—interest chargeable 110
—limit on annual payment 111
Interest on unpaid balances in case of installment payments 110
Law governing levy 107
Limitation on amount 111
Officers' duties in manitaining accounts, etc., prescribing 110
Proceeds of levy, use of 110
Revolving fund 103, 110
—crediting levy of assessment as collected 110

SPECIAL ELECTION FUND
Appropriation for 181
Reimbursement of 181, 184
Use of 181

SPECIAL ELECTIONS. See also Elections
Authorization of 179
Boroughs, as to 194
Calling 174, 179
Charter, conformity to 186
Funds for 181
Informalities in 186
Ordinances, submission to electors 179
Petition for 174
Time for 182
Verification of petitions for 180
—defraying costs of 181

SPECIALIZED SERVICES
Compensation for 151

SPECIAL POLICE OFFICER
Appointment 35.9

SPONSORS OF CANDIDATES
Certificates, preservation by registrar 175
Certifying to candidate's qualifications 175
—refusal of registrar to file certificate 175
Names of, mailing to voters 176
Number of 175
Qualifications of 175
Voters to be furnished addresses and occupations of 176

SECTION

SPUR TRACKS
Borough's powers respecting 195
Permit for, procedure 114

SQUARES
Tax for 78

STANDARDIZATION
Materials, supplies and equipment 88
Salary, see Salary Standardization

STANDARDS OF PROFESSIONAL CONDUCT
Service under health service system 172.1

STATEMENTS
Ballots, in, 184
Declaration of candidacy 175
Officers, of, on recall 183
Recall arguments and reasons 183
Recall petition, matters to be stated in 179
Title of office or employment, to be used in statements 141

STATE OF CALIFORNIA
Compensation insurance fund 172
Highways, borough powers as to 195

STATE SENATE
Municipal elections provisions inapplicable to 175

STATUTES
Applicability to exercise of powers 3
Bond issue procedure, application to 101
Elections, general laws applicable to 174
Public improvement procedure, application to 107

STEINHART AQUARIUM. See also California Academy of Sciences
Appropriations 52
Civil service 52
Employees 52
Management 52
Salaries and compensation of employees 151
Trust not abrogated 52

STENOGRAPHERS. See Secretaries
Mayor, of 25
Treasurer's stenographer, continuance in employment under new charter 142.1

STREET RAILWAYS. See Transportation

STREETS
Acceptance 108
—liability for injuries sustained afterwards 113
Adjacent property, placing in safe condition 112
Art commission's authority over structures over or on streets, etc. 46
Borough powers as to 195
Borough planning commission, powers as to streets 202
Bridges, law governing construction 107
City engineer, certificate 108

SECTION

STREETS—(Continued)
- Conduits and culverts, law governing construction 107
- Contracts 95
  - —$500 emergency construction on unimproved or unaccepted street 95
- Damages
  - —law governing payment 107
  - —liability 113
- Defective
  - —liability in damages 113
  - —notice of defect 113
- Director of public works, liability in damages 113
- Excavations, utility commission to observe regulations and ordinances 121
- Fees, utilities commission to pay 121
- Gas mains, ordering 112
- Grades,
  - —borough powers as to 195
  - —statutes governing establishment or change 107
- Improvement, law governing 107
- Inspection rules, commission subject to 121
- Joint occupation of streets by railway companies 133
- Opening, law governing 107
  - —appraisal and report by director of property 91
- Ordinances
  - —acceptance of street 108
  - —planning department, referral of ordinances
    - —acquisition, etc., of public ways 116.1
    - —set-back lines, establishment 117
  - —procedure for establishing, etc., prescribing 107
- Parking, law governing construction 107
- Patented pavement, restrictions on ordering 109
- Paving and repaving, law governing 107
- Poles in streets, utilities commission to observe regulations 121
- Repair
  - —accepted street 108
  - —roadway of street railway 108
  - —sidewalk 108
- Sewer, etc., mains, when ordered 112
- Special assessments, law governing levy 107
- Statutes, application of 107
- Subways, law governing construction 107
- Tax for 78
- Trees, law governing planting 107
- Tunnels, law governing construction 107
- Utility openings, duty of utilities commission respecting 121
- Vacating, law governing 107
- Viaducts, law governing construction 107
- Water mains, ordering 112
- Widening, law governing 107

STREET TRAFFIC ADVISORY BOARD
- Creation 61
- Members 61
- Recommendations 61

SECTION

STUDENTS
Civil service, exception of student nurses 142

SUBDIVISIONS
Plats, etc., submission to city planning commission 118

SUBPOENAS
Authority to issue 21
Boroughs, issuance by 195
Disobedience as contempt 21
Police officer to serve, designation 21

SUBSCRIBING. See Signing; Signature

SUBSURFACE GARAGES
Parks, under 41

SUBSTITUTE
Employees, retirement system, as members of 165.2 (A)

SUBWAYS
Joint use of 133
Law governing construction 107
Municipal railways using 133

SUCCESSORS IN OFFICE
Recalled officers, of 184

SUCCESSION
Registrar of voters, of, to board of election commissioners 173

SUMMONS. See Process

SUPERINTENDENT
Authority of board or commission to appoint 19(h)
Department of electricity, of 61
Recreation department, of 42

SUPERINTENDENT OF SCHOOLS
City board of examination, component of 139
Courses of study, recommending 138
Deputy superintendents
—appointment 137
—city board of education, component of 137
—permanent employees, classification as 135
—qualifications 137
—visiting schools 138
Enforcing regulations of board of education 138
Executive officer of board of education 136
Officer, as 4
Powers generally 137
—department heads, possession of powers specified for 136
Purchase of suppies 138
Qualifications 136
Recommendations 138
—appointments, promotions, etc 135
Recreation commission, ex-officio office 42
Religious books, duties respecting 138
Removal, grounds, proceedings 136
Reports 138
Residence 136

SECTION

SUPERINTENDENT OF SCHOOLS—(Continued)
Salary 136
—exemption from standardization........ 151.1
Sectarian books, duties respecting........ 138
Text books, recommending........ 138
Visiting and reporting on schools........ 138

SUPERINTENDENT OF PARKS
Appointment 40
Recreation commission, ex-officio office........ 42

SUPERIOR COURTS
District attorney to prosecute criminal cases........ 29
Judges
—law library, membership of board of trustees........ 57
—§ 175 not applicable to........ 175
Jury commissioner, officer as........ 4
Probation officers, appointment........ 58
Secretary-jury commissioner, appointment........ 56
Secretary, officer as........ 4

SUPERVISORS. See Board of Supervisors

SURGEONS. See Physicians and Surgeons
Police surgeon, see Police Department

SURPLUS COMMODITIES
Purchase 88.1

SUSPENSION
Officers, see that title
Ordinances, of, after voters' protest........ 179

SYMPHONY ORCHESTA
Tax for 78

SYSTEM
Defined ....168.1 (A)
Health service system, see that title
Retirement system, see that title

TABLES
Retirement benefits, to members of police department........168, 171
Retirement system, mortality, service and other tables........ 160

TAX ANTICIPATION NOTES
Authorization and regulation........ 81

TAXATION
Application of moneys collected........ 81
—bond principal or interest, tax for........ 81
—Market Street Railway balance, no obligation to pay from taxes 119.1 (6)
—tax anticipation notes, payment of........ 81
Appropriation, see that title
Assessor, see that title
Bills, tax, special assessment delinquency, noting of........ 107
Board of equalization, supervisors as........ 9
Bonds
—application of money collected........ 81
—levy for interest, redemption or sinking fund........ 78

SECTION

TAXATION—(Continued)
- Borough taxes 206
  - —power of 195
  - —tax subventions 207
- Collector, see Tax Collector
- Emergency reduction 70.1 (6)
- Levy 78
  - —cash reserve fund, for 81
- License tax 24
- Limitation, rate 78
- Notes, tax anticipation 81
- Purposes 78
  - —Academy of Sciences, furnishing funds for 52
  - —Aquarium, Steinhart, appropriation for 52
  - —California Palace of Legion of Honor 50
  - —de Young Museum (M. H.), budget provision for 51
  - —emergency reserve fund, for 79
  - —interest, for 78
  - —parks, for 78
  - —redemption or sinking funds, for, 78
  - —retirement system, contributions to 164
  - —utility deficit, to meet 130
    - —appropriation for deficit 74
    - —Market Street Railway, exemption 119.1 (3)
  - —War Memorial, appropriation for 44
- Rate 78
  - —emergency reserve fund, to provide 79
  - —limitation 78
- Referendum of tax ordinances, prohibited 179
- Utility deficit, tax to meet 130
  - —appropriation for deficit 74
  - —Market Street Railway, exemption 119.1 (3)

TAX COLLECTOR
- Attorney for bureau of delinquent revenue collection 26.1
- Consolidation of counties, continuation of sheriff's office on 189
- Department of finance and records, inclusion in 61
- Officer, as 4
- Powers, examining books of licensed businesses 24
- Special assessment delinquency, noting on tax bill 107

TAXPAYERS' SUITS
- Allowance of costs and attorney's fees 27

TAX RATE LIMITATION
- Provision 78

TEACHERS. See Schools

TEACHINGS
- Religious, see Religion

TEAMING SERVICE
- Personal service, as, for purpose of verification of payrolls, etc. 150

TELEPHONE
- Connection with police, fire signal or telephone 61
- Department of public works, inclusion of exchange 61

SECTION

TEMPORARY
- Appointments 149
- Civil service, exemption of temporary services 142
- Employees, members of retirement system .... 165 (A)

TENURE
- Limited tenure appointments 145.1

TERM
- Retirement allowance, term of payment .... 165.2 (A)

TERMINATION
- Employment, notice of termination 148
- Limited tenure positions, of 145.1
- Retirement allowances, members of police department .... 168.1 (C)

TERM OF OFFICE
- Actuary, of, of retirement board 159
- Borough officers, of 197
- Civil service commissioners 140
- Consolidation of counties, continuation of officers on 189
  - —city clerk, finishing term after consolidation of boroughs 201
- Election commissioners, termination of 173
- Medical director of health service 172.1
- Particular officers, see the title to the office
- Retirement before expiration of 158.1

TERRITORY. See Boundaries
- Boroughs, territory included 194

TESTS
- Appointment to office or employment, on making 140, 141
- Civil service applicants, of, ... 145
- Limited tenure appointment, for 145.1
- Materials, establishing tests for 88
- Public office, to determine fitness for 140

TIME
- Ballots, to furnish or mail to voters 176, 183
- Board of election commissioners, of abolishment of 173
- Borough council, for meetings of 198
- Candidacy
  - —declare, to 175
  - —sponsors' certification of qualifications 175
  - —withdraw, to 175
- Civil service commission, meetings of 140
- Civil service examinations, for 144
- Election, for 174
  - —boroughs, as to 194
  - —declaration of policy 182
  - —initiative measures, on 182
  - —recall election 182
  - —special elections 182
- Eligible lists
  - —approval of 147.1
  - —to make changes in 147.1
- Emergency appointees, compensation period of 149

SECTION

TIME—(Continued)
Health service board
—hearings on health service matters........ 172.1
—review of decisions of, for........ 172.1
—time to fix compensation of employees........ 172.1
Hearing, of charges against officers or employees........ 154
Initiative
—investigation of signatures to petition........ 180
—withdrawal of names from petition, for........ 180
Leave of absence, length of........ 153
Limited tenure appointments, termination of........ 145.1
Notice, to give,
—civil service commission, to, of changes in positions........ 143
Notice of promotion examinations, period of posting........ 144
Office hours 220
Pensions
—election between, and actuarial equivalent........ 166
—payment of 166
Publication of schedules of compensation........ 151
Recall, for, ... 179
—investigation of signatures to petition........ 180
—revocation of signatures to petition........ 180
—to question sufficiency of petition........ 180
Referendum, for 179
—investigation of signatures to petition........ 180
—withdrawal of names from petition, for........ 180
Reinstatement of employees, for
—after military service........ 153
—after Red Cross service........ 153.1
Retirement, service time........168.1 (H)
Retirement board, time to act on health service matters........ 172.1
Retirement system
—elect membership in, to........ 169
—exercise option as to membership, to........165.2 (A), 166
—filing application for membership in........ 158.1
—payment of contributions, for........ 160
Special elections, to mail measures, arguments and ballots to voters 183

TIMEROLL
Personal services, of........ 150
Verification of 150

TITLES
Ballots, placing on........ 175
Offices or employments, use of titles assigned to........ 141
Property, title to, see Property
Recording, on consolidation of counties........ 192

TOLLS
Harbor tolls, regulation........48(d)

TORT
Charter not to affect existing liabilities........ 2
Streets, liability for injuries, see Streets

TRACKS
Joint use with City and County, arrangements for 121
Spur track permits 114

TRAFFIC
Control devices, authority to locate and use 35
Coordinating functions of departments 60
Police commission, authority 35
Street traffic advisory board, see that title

TRANSFER
Cases, of, on consolidation of counties 191
Employees or officers
—civil service commission's rules to govern 141
—of disabled 156

TRANSPORTATION. See also Public Utilities Commission Public Utilities, Utilities
Abandonment of lines
—permit, lines operated under 132
—unification, abandonment following 132.1
Acquisition by City and County
—compensation, how fixed 131
—declaration of surrender of franchises, etc 131
—Market Street Railway unification, see that title
—notice of intention to acquire 131
—transfer of property by deeds 131
Bus operators, platform men assigned as 125
Cable cars, maintenance and operation of system 119.3
Department under utilities commission, as 122
Employees
—bus operators, platform men assigned as 125
—compensation
—bus operators, platform men assigned as 125
—standardization of 151.3
—overtime work, compensation for 125
—conditions of employment 125
—leased utilities, employees in operative service on 125.1
—newly acquired utilities, employees on 125.1
—status 125
Extension of lines, supplemental permits for 132
Franchises, surrender, declaration of 131
Joint occupation of streets 133
Joint use of tracks, arrangement for 121
Market Street Railway, acquisition of, see Market Street Railway Unification
Public utilities commission, see also that title
—abandonment of line, recommending 132.1
—proposing ordinances 133
—regulations 133
Repair of roadway 108
Speed, regulation 133
Street cars, one-man operation prohibited, see Appendix "B"
Transfer privileges, exchange with private companies 121
Tunnels, joint use 133
Twenty-five year operating permit 131
—declaration of surrender, making and filing 131

SECTION

TRANSPORTATION—(Continued)
—nonapplication of provisions governing franchises.......... 131
—revocation of acquisition of properties by City and County 131
—supplemental permits for extensions.......... 132
—when permit effective.......... 131

TRANSPORTATION ROUTES
Planning department, referral of ordinances as to.......... 116.1

TRAVELING EXPENSES
Ordinances respecting 219
—referendum prohibited 179

TREASURER
Appointing and removal power.......... 31, 34
Assistants and employees, appointment and removal.......... 34
Bond, official 31
Chief assistant, appointment and removal.......... 31
Clerk-stenographer in office, continuance in office under new charter 142.1
Compensation 31, 151.1
Consolidation of counties, continuation of office on.......... 189
Custody of money and property in possession of.......... 83
Delivery of money and checks to.......... 82
Deposit of funds in bank.......... 82
—nonliability for loss.......... 82
—responsibility for keeping of securities.......... 82
Depositing health service funds with.......... 172.1
Election 5
Elective officer 5, 31
Joint custody safe.......... 83
Keeping money other than that of City and County.......... 82
Payment of warrants on district attorney's special fund,.......... 29
Pension funds and securities deposited with.......... 82
Record of moneys, etc., in joint custody safe.......... 83
Term of office.......... 5

TREASURY
Restrictions on withdrawal of money.......... 85

TREES
Law governing planting.......... 107

TRIAL
Charges against officers or employees, of.......... 154
—members of police and fire department.......... 155

TRUCKING SERVICE
Personal service, as, for purpose of verifying payrolls, etc.......... 150

TRUSTS
Authority to receive and administer
—boards .... 19(d)
—City and County.......... 2
Charter not to affect existing.......... 2
Steinhart Aquarium 52

TUMULT
Chief of police power to suppress.......... 35.7

SECTION

TUNNELS
Joint use by railway companies 133
Law governing construction 107

UNDERGROUND GARAGES
Parks, under, 41

UNDERWRITERS FIRE PATROL
Salvage corps, members of 38.1

UNENCUMBERED BALANCE
Certification of balance useable for proposed expenditure 85, 86, 88, 88.1
Definition 76
Transfer for use of other department 77
Withholding warrant where balance for paying claim insufficient 85

UNIFORMITY
Borough legislation, of 218

UNITED STATES
Officers, prohibition against holding city offices 142

UNITED STATES SENATORS
Municipal elections provisions inapplicable to 175

UNIVERSITY
Night university, authority to establish, etc 9

UTILITIES
Privately owned utilities
—joint use of facilities 121
—transfer privileges with private transportation companies 121
Public utilities, see that title
Ordinance granting franchise
—effective date 16
—emergency measure, not to be passed as 16
—time between introduction and passage 13

VACANCY IN OFFICE. See also Officers
Appointments by mayor to fill 25
—successor to recalled officer 184
Borough offices 197
Elected candidate's failure to qualify, on 178
Health service board, in 172.1
Notice of, to civil service commission 143
Retirement, on, appointments to unexpired term 158.1

VACATIONS
Firemen 36.1(d)
Leaves of absence 153
Salary allowance for 151

VALUATIONS
Retirement system, for 160

VARIANCES. See Zoning

SECTION

VERIFICATION
- Claims for damages for injuries ... 87
- Complaint of, against policemen and firemen ... 155
- Initiative petition ... 180
  - —of withdrawal of signature to ... 180
- Ordinances, of petition protesting ... 179
- Payrolls, of ... 150
- Recall petition ... 180
  - —withdrawal of names from ... 180
  - —withdrawal of signature to ... 180
- Referendum petition ... 180
  - —withdrawal of names from ... 180
- Special election petitions ... 180
  - —funds to defray costs of ... 181

VETERANS
- Civil service appointment ... 145
  - —credits allowable ... 145
- Disabled, transfer to other positions ... 156
- Preference for appointments ... 153
- Resumption of preservice employment ... 153
- Retirement system, option of veterans as to membership ... 165.2
- War Memorial board of trustees, appointments to ... 44
- Who are ... 145
- Widows of, appointment under civil service ... 145

VETERAN'S BUREAU
- Records of, veteran's disability shown by ... 145

VETO
- Authority and duty of mayor ... 14
- Declaration of policy, of, after approval by voters ... 185
- Initiative measure, of ... 185

VIADUCTS
- Joint use ... 133
- Law governing construction ... 107
- Municipal railway using ... 133

VOCATION
- Candidate, of, designating on ballot ... 175

VOTERS; VOTING. See also Elections
- Borough, transfer of powers of ... 196
- Competing measures, voting on ... 185
- Health service board
  - —members of, for ... 172.1
  - —plan of medical care ... 172.1
- Initiative, see that title
- Majority vote, on consolidation ... 194
- Number of voters, as measuring number of copies of election arguments ... 183
- Ordinances
  - —protest by voters ... 179
  - —submission to voters ... 179
- Recall, see that title
- Referendum, see that title
- Registrar of voters, see that title
- Registration ... 173, 174

VOTERS; VOTING. See also Elections—(Continued)
  Retirement board, voting on retirement of firemen 169
  Sample ballots, mailing to voters 183
  Soliciting votes, prohibition against 157
  Special elections, mailing measures to voters 183
  Sponsors of candidates, restriction to qualified voters 175
  Supervisors, retirement benefits 158, 165.2 (A)
  Voter, defined 188
  Voting machines 177

VOTING MACHINES
  Number of inspectors and judges where machines used 177

WAGES. See Employees

WAIVER
  Temporary or seasonal employment, of 148

WAR
  Absence in, as affecting retirement, see Retirement System
  Civilian defense, see that title
  Limited tenure appointment during 145.1
  Military leaves, see Leaves of absence
  Reduction of retirement allowances during 163
  Veterans, see that title
  "War effort leaves" to officers and employees 153

WAREHOUSES
  Charges for use or service, fixing and regulating 48(d)
  Regulation where used in connection with harbor 48(b)

WAR MEMORIAL
  Appropriation for 44
  Board of trustees 44
  Managing director 44
  Secretary 44

WARRANT AND BOND OFFICE
  Creation 30
  Deputy, assistants and clerks
    —appointment 30
    —control by judges in fixing bail and releasing prisoners 30
    —duties 30
  Provision for 30

WARRANT OF ARREST. See Arrest

WARRANTS. See also Controller
  Borough warrants 200
  Compensation or salary, for, 150
    —of emergency appointees 149
  Drawing and signing 85
  Funds to be disbursed by 82
  Insufficient balance for payment, withholding warrant in case of 85
  Personal services, payment of 150
  Purchaser's revolving fund, warrants against 90

SECTION

WATER. See also Public Utilities, Public Utilities Commission
- Aqueducts, joint use with City and County 121
- Mains, ordering laying of 112
- Reservoirs, joint use with City and County 121

WATER DEPARTMENT
- Department under utilities commission, as 122

WEEDS
- Law governing removal 107

WEIGHTS AND MEASURES. See Department of Weights and Measures

WHARVES
- Lease of docks and piers ..... 48(e)
- Regulation and control ..... 48(b)
- Wharfage, fixing and regulating ..... 48(d)

WIDOWS
- Firemen, of, pensions to 169, 170
- Policemen, of, retirement benefits and allowances to ..... 166, 168.1 (D)
  - —continuation of payment 167
- Veterans, of, under civil service 145

WITHDRAWAL
- Candidacy for office, of 175
- Signature, of, to initiative, referendum or recall petition 180

WITNESSES
- Disciplinary hearings, at, of members of police and fire department 155
- Summoning by borough or borough controller 195, 200
- Subpoena, see that title

WORDS AND PHRASES
- Allowance ..... 165.2 (A)
- Appointing officer 143
- Average final compensation ..... 165.2 (A)
- Benefit ..... 165.2 (A), 168.1 (A)
- Charter ..... 165.2 (A), 168.1 (A)
- City 188
- City and County 188
- Compensation ..... 165.2 (A), 168.1 (A)
- Compensation earnable ..... 165.2 (A), 168.1 (A)
- Consolidation 188
- Continuous service 161
- County 188
- Death allowance ..... 168.1 (A)
- Death benefit ..... 165.2 (A)
- Emergency 16
- Final compensation ..... 168.1 (A)
- Governmental agency 188
- Interest ..... 165.2 (A), 168.1 (A)
- Majority, or other vote 19
- Masculine gender, words in, as including feminine and neuter ..... 165.2 (A)
- Medical care 172.1
- Miscellaneous officer or employee ..... 165.2 (A)
- Official newspaper 13

SECTION

WORDS AND PHRASES—(Continued)
- Pension 166, 169
- Plural, as including singular .... 165.2 (A)
- Published 13
- Quorum 19
- Resident 7
- Retirement allowance .... 165.2 (A), 168.1 (A)
- Retirement board .... 165.2 (A), 168.1 (A)
- Retirement system .... 165.2 (A), 168.1 (A)
- Singular, as including plural .... 165.2 (A)
- System .... 168.1 (A)
- Unencumbered balance 76
- Veteran 145
- Voter 188
- Work of art 46

WORKING CONDITIONS
- Contract work 98
- Municipal railway operators 125

WORKMEN'S COMPENSATION
- Benefits and service compensation distinguished .... 165.2 (A), 168.1 (A)
- Pensions, compensation as affecting 166, 169
- Retirement benefits under §165.2, compensation as affecting .... 165.2 (D)

WORKS. See Public Works

WRITING
- Borough, legal instruments of 199
- Charges against officer or employees, to be in writing 59, 136, 154
- Civil service commission, notice to, of changes in positions 143
  - —opinion as to new positions 143
- Compelling production 21
- Declaration of candidacy 175
  - —written reasons for refusal by registrar 175
- Dismissal charges and proceedings 154
- Health service board, written nomination of members 172.1
  - —petition for review of 172.1
- Retirement system
  - —application for membership in 158.1, 166
  - —options as to membership in .... 165.2 (A), 166
- Sponsor's certificate 175
  - —written reason's for refusal by registrar 175
- Suspension charges and proceedings 154

YEAR
- Fiscal year 69

ZONING
- Administrator 117.2
  - —variance, hearing applications for 117.3
- Boroughs, zoning powers of 195
  - —duties and powers of planning commission 202
- License, approval by planning commission 24
- Ordinance
  - —referral to and report by commission 117.1
  - —zoning administrator, duties respecting 117.2

SECTION

ZONING—(Continued)
Rules after comprehensive zoning ordinance
—appeal from commission ruling 117.1
—approval of change, presentation to supervisors 117.1
—hearings and notice thereof
—commission, of 117.1
—supervisors, of 117.1
—pending matters unaffected 117.1
—protest of commission ruling, filing 117.1
—resubmission of proposed change 117.1
—set-back lines, establishment and change 117.1
—supervisors, appeal to and action by 117.1
—variances, hearings, etc 117.3
Rules pending revised ordinance
—appeal from commission's rulings 117
—classification changes 117
—duty of commission 117
—hearings 117
—ordinance governing procedure 117
—referral of ordinances to commission 117
—resolution 117
—resubmission of proposed change 117
Variances (after adoption of revised ordinance)
—administrator, duties of 117.3
—appeal from rulings of administrator 117.3
—application to administrator 117.3
—board of permit appeals
—powers of board 117.3
—right to appeal to 117.3
—ordinance regulating procedure 117.3

ZOO
Director of 40

68

CALMAR PRINTING CO.
Printers
500 SANSOME STREET
SAN FRANCISCO • CALIFORNIA

SUPPLEMENTAL INDEX

CUMULATIVE SUPPLEMENTAL INDEX

ABANDONMENT SECTION

Park or recreation, land not needed for 41.1

ABSENCE

Military service, absence on after September 14, 1940, defined 161
Retirement system credits for absence in military service 161, 161.1

AGE

Firemen, age as basis of contributions to retirement system 171.1.10
Police members, age as basis of contributions to retirement system 168.1.10
Retirement, of
—in fire department
—members under 171.1.2
—members of police department 166, 168, 168.1.2, 168.1.16, 168.1.17

AGRICULTURAL COMMISSIONER

Administering County Agricultural Department 61

ALLOWANCES

Benefit as including allowance 165.2(A), 168.1.1, 171.1.1
Defined 168.1.1, 171.1.1
Retirement allowances, see Retirement System

AMOUNTS

Retirement allowances and benefits, of
—increases 165.1.1, 168.1.5.1, 168.1.16, 168.1.17
Retirement system
—contributions
—city and county, by 165.1.3, 166
—increase of benefits 16.5.13

ANNUAL SALARY ORDINANCE

Number and rates of compensation 73

APPLICATIONS

Residence outside city, application for 7

APPOINTMENTS

Immediate service, emergency appointment for 149
—immediate service, appointments for 149
—when authorized 145.1, 149
Superintendent of schools, confidential secretary for 136

APPORTIONMENT

Retirement allowances and benefits, of
—increases 165.1.1, 165.1.5.1, 168.1.16, 168.1.17

APPROPRIATIONS

Retirement system, for
—increases 161.1.1, 168.1.5.1, 168.1.16, 168.1.17

INDEX

SECTION

ARMY AND NAVY

- See also, Military Service
- Air corps, definition of 145.01
- Army, definition of 145.01
- Navy, definition of 145.01
- Retirement as affected by service in
  - —firemen
  - —members under § 171.1 171.1.9
  - —members of police department 168.1.9
- Service after September 14, 1940, as absence on military service 161

BALLOTS

- Mailing ballots to voters
  - —initiative, referendum and recall elections, on 183

BANKS

- Expense of transfer of money for deposit 82
- Treasurer's responsibility for securities deposited by 82

BENEFITS

- Allowance included in 165.2(A), 168.1.1
- Retirement benefits
  - Defined 165.2(A), 168.1.1
    - —workmen's compensation as reducing
      - —firemen under § 171.1 171.1.6
      - —firemen under § 171.1.1 171.1.6
      - —police under § 168.1 168.1.6
- Increase of 165.1.3

BOARD OF EDUCATION

- Compensation of 134

BOARD OF SUPERVISORS

- Board of equalization 9
- Initiative
  - —presenting arguments 183
  - —proponents of propositions, granting right to submit arguments 183
- Recall, presenting arguments 183
- Referendum, presenting arguments 183
- Street traffic advisory board membership, board abolished in 1948 61
- Superior court, duty to provide for 56
- Voting
  - —limitation, statutes of, waiver 13.1

BUDGET

- Estimates
  - —fire department salaries included 36.2
  - —police department salaries included 35.5.1
- Fire department salaries included 36.2
- Police department salaries included 35.5.1

BUREAU OF FIRE INVESTIGATION

- Appointments permanent 38.01
- Compensation for lieutenant 38.01
- Investigator, rank established 38.01
- Lieutenant, rank established 38.01
- Permanent appointments 38.01

INDEX

SECTION

BUREAU OF FIRE PREVENTION AND PUBLIC SAFETY
  Appointments permanent 38.01
  Captain, rank established 38.01
  Compensation for captain 38.01
  Examinations to fill vacancies 38.01
  Inspector, rank established 38.01
  Lieutenant, rank established 38.01
  Permanent appointments 38.01
  Ranks established 38.01
  Vacancies, filling of 38.01

BUREAU OF TRAFFIC ENGINEERING AND ADMINISTRATION
  Assistants to traffic director, assignment of 36.4
  Establishment 35
  Traffic director
    —compensation 35.5
    —designation 35.4
    —powers and duties 35

CALIFORNIA PALACE OF LEGION OF HONOR
  Increase of number of trustees 50
  Military leave of absence by employees 50

CALIFORNIA STREET CABLE RAILROAD UNIFICATION
  Authority to unify 119.4
  Budget adoption 119.4
  Commission
    —contract, execution 119.4
    —maximum purchase price 119.4
    —terms 119.4
  Extension of existing railway, acquisition as 119.4
  Findings
    —public interest and necessity 119.4
  Franchises, transfer to City and County 119.4
  Funds, general or other available 119.4
  Title, when transferred 119.4

CERTIFICATES; CERTIFICATION
  Ordinances, publication of 17

CHARTER
  Amendment of
    —controller's duties respecting 183
    —presenting opposing arguments 183
  Digests of court decisions published with 17
  Initiative ordinances published with 17

CHIEF ADMINISTRATIVE OFFICER
  Departments under officer
    —county agricultural department 61
    —former provisions as to street traffic advisory board and county welfare department omitted in 1948 61
  Street traffic advisory board, abolished 61
  Traffic director, assignment of assistants to 35.4

CHILDREN
  Policemen, of, pension to
    —election as to payment 168.1.5, 168.1.16, 168.1.17

INDEX

SECTION

CITY AND COUNTY

Retirement fund, contributions to 165.1.1, 165.1.3, 166, 168.1.10, 171.1.10, 172

CITY ENGINEER

Traffic director, assignment of assistants to 35.4

CITY PLANNING

Commission, city planning
  —street traffic advisory board, abolished 61

CIVIL SERVICE

Appointments 140, 149
Credits 145, 145.01
District attorney's office, application to positions in 34.1
Emergency appointments 149
Fire department members, physical qualifications 145, 145.01
Limited tenure appointments
  —compulsory military service in effect, operation of 145.1
  —national emergency, operation in 145.1
  —period of service under 145.1
  —platform employees of municipal railway 145.1
Non-civil service appointments, when authorized 145.1, 149
Physical qualifications
  —firemen 145, 145.01
  —police 145, 145.01
Police department members, physical qualifications 145, 145.01
Qualifications for positions in
  —firemen 145, 145.01
  —policemen 145, 145.01
Recreation and park department, application to employees in 41
School employees
  —cafeterias, employees in 135.1
Veterans, credits to 145, 145.01

CIVIL SERVICE COMMISSION

Firemen, survey and fixing of compensation for 36.2
Policemen, survey and fixing compensation for 35.5.1

CIVIL SERVICE EXAMINATIONS

Clean record in Police and Fire Departments, credit for 146
Credits 145, 145.01
  —veterans, to 145, 145.01
Meritorious service in Police Department, credit for 146
Rating 145, 145.01
  —veterans 145, 145.01
  —widows of veterans 145, 145.01
Veterans 145, 145.01
  —credits to 145, 145.01
Widows of veterans, of 145, 145.01

CLERKS

Board of supervisors, of
  —delivering copy of proposed amendments to controller 183

INDEX

SECTION

COMMISSIONS AND COMMISSIONERS
  Park commission, see Recreation and Park Department
  Recreation commission, see Recreation and Park Department

COMPENSATION
  Board of education.......... 134
  Captain, bureau of fire prevention and public safety.......... 38.01
  Defined..........165.2(A), 168.1.1, 171.1.1
  Disabled employee transferred.......... 156
  Emergency appointments.......... 149
  Jury service by officers and employees.......... 150
  Lieutenant, bureau of fire investigation.......... 38.01
  Police officers, see Police Department
  Recreation commission.......... 40
  Retirement fund, deductions for..........168.1.10(3), 171.1.10(3)

COMPENSATION EARNABLE
  Defined..........35.5.1, 36.2, 165.2(A), 168.1.1, 171.1.1

CONSOLIDATION
  Park and recreation departments..........40, 41, 42

CONTRIBUTIONS
  Retirement allowances and benefits
    —increases by City and County....165.1.1, 168.1.5.1, 168.1.16, 168.1.17
  Retirement system, to
    —city and county, by..........158.3, 166
    —elective officers.......... 158.2
    —fire department..........171.1.10, 172
    —increase of benefits, contributions for..........165.1.3
    —police department..........168.1.10, 172

CONTROL
  Parks and recreation facilities.......... 42

CONTROLLER
  Measures and amendments to be voted on, duties respecting.... 183

COST; COSTS
  Retirement benefits, of changes in..........158, 165.1.3

COUNTY AGRICULTURAL DEPARTMENT
  Chief administrative officer, department under.......... 61
  Commissioner.......... 61
  Functions.......... 61

COUNTY WELFARE DEPARTMENT
  Provision as to direction of chief administrative officer
    omitted in 1948.......... 61

CREDITS
  Civil service examinations, on..........145, 145.01
    —veterans and their widows, to..........145, 145.01
  Retirement credits
    —credits for service..........158.3, 165.2(B)

INDEX

SECTION

DEATH BENEFITS
  Fire department..........169, 171.1.4 - 171.1.6 - 171.1.7
  Police department..........166, 168.1.4 - 168.1.6
  Retirement system, under..........166, 168.1.4 - 168.1.7, 168.1.16, 168.1.17, 171.1.4 - 171.1.6
  Term "benefit" as including..........165.2(A), 168.1.1, 171.1.1

DEPARTMENT OF ELECTRICITY
  Superintendent
    —street traffic advisory board, abolished.......... 61

DEPARTMENTS
  Welfare, see Public Welfare

DISABILITY
  Firemen, disability benefits in lieu of Labor Code provisions for 172
  Policemen, disability benefits in lieu of Labor Code provisions for.......... 172
  Retirement for
    —members of fire department..........169, 170, 171, 171.1.3
    —members of police department..........166, 168, 168.1.3

DISCONTINUANCE
  Park or recreation, land not needed for.......... 41.1

DISTRICT ATTORNEY
  Assistant and employees
    —civil service, subject to.......... 34.1

EFFECTIVE DATE
  Retirement allowances and benefits
    —increases, of..........165.1.1

ELECTION
  Firemen, retirement system membership.......... 171.1
  Police department, retirement system membership.......... 168.1

ELECTIONS
  Fire department, retirement system
    —death allowance
      —surviving spouse, guardian, dependent parent, by..........175.1.5
  Pamphlets, printing and mailing.......... 183

ELECTIVE OFFICERS
  Retirement system, members of..........158, 158.1, 158.2

ELIGIBILITY
  Retirement allowances and benefits, to
    —increases, of..........165.1.1

EMPLOYEES
  Civil service
    —school cafeteria employees.......... 135.1
  Compensation
    —police department, members of, see Police Department
    —standardization
      —vacation, salary allowance for.......... 151

SECTION

EMPLOYEES—(Continued)
Disabled, transfer and compensation of........ 156
Emergency appointments........ 149
Jury service by, compensation for........ 150
Leaves of absence
—California Palace of Legion of Honor employees, military leaves by........ 50
—for sea duty under compulsory miiltary service........ 153
—for sea duty in national emergency........ 153
Non-civil service appointments........ 149
Recreation and park department, employees in........ 41
Transfer under disability........ 156
Vacation
—allowance........ 151.4
—eligibility for........ 151.4
—limitation on increase or reduction of rights........ 151.5(a)
—pay, computation of........ 151.4
—payments, validation of........ 151.5(c)
—period when taken........ 151.4
—right to, when compensation fixed under 151.3........ 151.5(a)
—rights granted not to affect wage or pay rate........ 151.5(b)
—time, computation of........ 151.4

EMPLOYMENT
Immediate service, employment for........ 149

ESTATES OF DECEDENTS
Firemen, payment of death benefits........ 169, 171.1.7
Police, payment of death benefits........ 166, 168.1.7, 168.1.16, 168.1.17

EXAMINATION
Medical examination for residence outside city........ 7

FAMILY
Firemen, of, death allowances to........ 167, 171.1.4 - 171.1.6
Police, of, death allowances to........ 166, 168.1.4 - 168.1.6

FEES
Election pamphlet, fee charged for printing........ 183

FEMININE
Masculine as including........ 165.2(A), 168.1.1, 171.1.1

FIREBOATS
Conversion from steam to motorized, reassignment of personnel........ 38.3
Curtailment of operations, reassignment of personnel after........ 38.3
Discontinuance of operations, reassignment of personnel upon 38.3
Lay off of personnel upon curtailment or discontinuance of operations........ 38.3
Reassignment of personnel because of curtailment or discontinuance of operations........ 38.3

FIRE DEPARTMENT
Assignment of fireboat personnel to........ 38.3
Captains
—compensation........ 36, 36.2, 38.01

SECTION

FIRE DEPARTMENT (Continued)

- —examinations for 38.01, 146
- Clean record, credit on promotional examination.... 146
- Commission
  - —retirement of incapacitated member, recommendation....171.1.3
- Compensation
  - —adjustment for 1952-1953.... 36.2
  - —budget, inclusion in.... 35.5.1
  - —first year service.... 36.2
  - —fourth year service.... 36.2
  - —holidays, service on.... 36
  - —normal day off, service on.... 36
  - —ordinance, fixing by.... 36.2
  - —rates fixed in accordance with annual survey.... 36.2
  - —rates of compensation, meaning of.... 35.5.1
  - —revision of under surveys.... 36.2
  - —salary ordinance, inclusion in.... 36.2
  - —second year service.... 36.2
  - —service exceeding basic week, compensation for.... 36
  - —third year service.... 36.2
- Credits on promotional examination.... 146
- Disability benefits for members of.... 172
- Fireboat personnel reassigned to.... 38.3
- Fire investigation, see Bureau of Fire Investigation
- Fire prevention bureau, see Bureau of Fire Prevention and Public Safety
- Medical care for members disabled or ill on duty.... 172
- Members of
  - —holidays, uniformed force entitled to.... 36
  - —qualifications 7, 145, 145.01
- Prevention bureau, see Bureau of Fire Prevention and Public Safety
- Qualifications of....7, 145, 145.01
- Reassignment of fireboat personnel to.... 38.3
- Retirement, see Retirement System
  - —overtime compensation, exclusion of.... 36
- Wages, see Compensation, supra

FIRE INVESTIGATION BUREAU

- See Bureau of Fire Investigation

FRANCHISES

- California Street Cable Railroad, transfer to City and County 119.4

FUNDS

- Deposit, law governing.... 82
- General funds
  - —California Street Cable Railroad Purchase price, payment 119.4
- Interest on deposits.... 82
- Investment, trust funds.... 82
- Retirement fund
  - —contributions to....158.1, 165.1.3
  - —fund against which contributions chargeable....165.1.3, 160

GENDER

- Words in masculine as including feminine and neuter....163.2(A), 168.1.1, 171.1.1

INDEX

SECTION

HEALTH
Residence outside city because of 7

HEARINGS
Zoning 117, 117.1

HORTICULTURAL INSPECTION DEPARTMENT. See County Agricultural Department

ILLNESS
Firemen, benefits for illness in performance of duty 172
Policemen, benefits for illness in performance of duty 172
Retirement for 168.1.3, 171.1.3

INCAPACITY
Retirement of firemen and policemen for 168.1.3, 171.1.3

INITIATIVE
Controller's statement, making and mailing 183
Mayor, submission of arguments by 183

INTEREST
Deposit of moneys, interest on 82
Meaning of .... 165.2(A), 168.1.1, 171.1.1

JAIL MATRON
Retirement, service time 168.1.9

JURY SERVICE
Officers and employees, compensation for 150

LAWS
Deposit of moneys, law governing 82
Disposition of park land, application of law as to 41.1

LEASES
Recreation and park commission
—authority 42

LEAVES OF ABSENCE
Military leaves
—California Palace of Legion of Honor, employees of 50

MARINE CORPS
Definition of 145.01

MASCULINE
Feminine and neuter, as including .... 165.2(A), 168.1.1, 171.1.1

MAYOR
Election 5, 5.1
Initiative, presenting arguments 183
Recall, presenting arguments 183
Successive terms, limitation as to 5.1
Term of office 5, 5.1

SECTION

MEDICAL CARE
Firemen, disabled on duty, medical care without industrial accident awards 172
Policemen disabled on duty, medical care without industrial accident awards 172

MEDICAL EXAMINATION
Residence outside city, examination for 7

MILITARY SERVICE
Absence on defined 161
City and County retirement system contributions for members in 161.1, 161.2
Continuous service under retirement system as affected by 161
Refund to members of retirement system contributions otherwise payable by City and County 161.2
Retirement system contributions by members in 161.1

MUNICIPAL COURT
Charter as controlling constitution and regulation of court 53
Judges
—presiding judge, duties of 53
—removal provisions, exclusion form, by 1948 amendment 11
—street traffic advisory board abolished 61
Retirement system membership by personnel of 158.3

NEUTER GENDER
Words in masculine, as including neuter .... 165.2(A), 168.1.1, 171.1.1

OFFICERS
Fire department
—retirement, see Retirement System
Jury service by, compensation for 150
Leaves of absence
—for sea duty in national emergency 153
—for sea duty under compulsory military service 153
Retirement
—as precluding further services 163, 168.1.12, 171.1.12

OFFICES
Office hours
—Saturday, authority for closing on 220

OPTIONS
Retirement
—increases, modification of 165.1.1
—members of fire department
—members under § 171.1 .... 171.1.2
—members of police department
—members under § 168.1 .... 168.1.2, 168.1.16, 168.1.17
Retirement system membership 158.1, 158.2, 166
—fire department
—membership under § 171.1 .... 171.1
—police department, membership under § 168.1 .... 168.1

INDEX

SECTION

ORDINANCES AND RESOLUTIONS
  Amendment of codifying ordinance 17
  Bound book form of publication 17
  Charter, initiative ordinances published with 17
  Certificates of correctness of codification and publication 17
  Immediate adoption, consent required for 13
  Loose-leaf form of publication 17
  Prior codification deemed valid 17
  Rearrangement by ordinance 17
  Recodification of 17
  Single subject, codification ordinance confined to 17
  Validity of codification 17

PARKS AND PUBLIC PLACES
  Disposition of land not needed for park or recreational purposes 41.1

PERCENTAGE
  Retirement allowance, percentage of compensation, see Retirement System

PHYSICAL QUALIFICATIONS
  Fire department, for positions in 145, 145.01
  Police department, positions in 145, 145.01

PLURAL
  Singluar, as including 165.2(A), 168.1.1, 171.1.1

POLICE DEPARTMENT
  Bureau of criminal information
    —director of, compensation 35.5
  Bureau of personnel
    —director of, compensation 35.5
  Bureau of special services
    —director of, compensation 35.5
  Bureau of traffic engineering and administration 35
  Captain of inspectors
    —compensation of 35.5
    —designation of 35.4
  Chief of inspectors
    —compensation 35.5
    —designation 35.4
  Chief of police
    —assistant to chief of inspectors, designation of 35.4
    —chief of inspectors, designation of 35.4
    —traffic director, designation of 35.4
    —street traffic advisory board, abolished 61
  Clean record, credit on promotional exam 146
  Credits on promotional exam 146
  Commission
    —report of members for roll call, etc., requiring 35.5½ (g)
    —retirement of incapacitated member, recommendation 168.1.3
    —service more than basic week, authority to require 35.5½ (d)
    —successors to commissioners at time of amendment 35
    —term of office of commissioners 35
    —traffic director as subject to 35

SECTION

POLICE DEPARTMENT (Continued)
Compensation
—adjustment for 1952-1953 ... 35.5.1
—budget, inclusion in ... 35.5.1
—first year service ... 35.5.1
—fourth year service ... 35.5.1
—holidays, additional days with pay ... 35.5½ (h)
—normal days of, service on ... 35.5½ (e)
—ordinance, fixing by ... 35.5.1
—rates fixed in accordance with annual survey ... 35.5.1
—rates of compensation, meaning of ... 35.5.1
—revision of under surveys ... 35.5.1
—salary ordinance, inclusion in ... 35.5.1
—second year service ... 35.5.1
—service exceeding basic week ... 35.5½ (d)
—survey of rates ... 35.5.1
—third year service ... 35.5.1
—time off each week ... 35.5½ (c)
—vacation service, compensation for ... 35.5½ (e)
Compensation adjustment under surveys ... 35.5.1
Criminologist
—compensation of ... 35.5
Deputy chief of department
—compensation of ... 172
Disability benefits for members of ... 172
Disability leaves, noninterference of section with ... 35.5½ (f)
Lieutenants
—compensation of ... 35.5
Medical care for members disabled or ill on duty ... 172
Meritorious service, credit on promotional exam ... 146
Photographer
—compensation of ... 35.5
Report for roll call, preceding duty, uncompensated ... 35.5½ (g)
Retirement, see Retirement System
Secretary
—compensation of ... 35.5
Traffic bureau ... 35.5
Traffic director, see Bureau of Traffic Engineering and Administration
Wages, see Compensation, supra

PROPERTY
Sale
—capital improvements, use of proceeds for ... 92
—limitation on use of proceeds ... 92
—parks and squares, unneeded land held for ... 41.1

PUBLIC SAFETY BUREAU
See Bureau of Fire Prevention and Public Safety

PUBLIC UTILITY
Acquisition of public utilities
—California Street Cable Railroad unification, see that title

SECTION

QUALIFICATIONS

Superintendents of schools, assistants or associates, qualifications of ... 136

RANK

Fire department, in ... 38.01, 146

RATES

Retirement system
—rate of contribution for members
—firemen under § 171.1 ... 171.1.10
—police under § 168.1 ... 168.1.10

REAL ESTATE DEPARTMENT

Purchase, lease and sale of real property and improvements ... 91-93
Records of real property ... 94

RECALL

Arguments
—presenting to registrar ... 183

RECREATION AND PARK DEPARTMENT

Commission, see generally Commissions
—California Palace of Legion of Honor, trusteeship of ... 50
—consolidation ... 40
—control of parks ... 42
—duties ... 42
—leases ... 42
—policy ... 42
—powers ... 42
—removal ... 11
—successors
—of recreation commissioners ... 40
—of park commissioners ... 40
—term ... 40
—vacancies ... 40
—women, members of ... 40
Director of zoo ... 41
Employees, civil service rights of ... 41
Executive secretary ... 41
General manager ... 41
Revenue ... 42
Secretary ... 41
Subsurface parking stations ... 42
Superintendent of parks ... 41
Superintendent of recreation ... 41
Tax levy, for ... 42
Unified school district, supervision by ... 42

RECREATION

Disposition of land not needed for purpose of ... 41.1

REFERENDUM

Controller's statement, making and mailing ... 183

INDEX

SECTION

REGISTRAR OF VOTERS
- Arguments on propositions, duties respecting 183
- Measures to be voted on, printing and mailing 183

RESERVES
- Retirement allowances and benefits
  - —increases, transfer for 165.1.1, 168.1.5.1, 168.1.16, 168.1.17

RESIDENCE OUTSIDE OF CITY
- Authorization for 7

RETIREMENT BOARD
- Defined 165.2(A), 168.1.1, 171.1.1
- Disability provisions for firemen and policemen, administration of 172
- Fire department members
  - —bringing question of retirement before board 171.1.3
- Police retirement, determination of 168.1.3
- Prior authorization as to residence, review of 7
- Residence authorization, granting of 7

RETIREMENT SYSTEM
- Allowances and benefits
  - —amounts, computation of 165.1.1
  - —apportionment of 165.1.1
  - —appropriations, annual for 165.1.1
  - —contributions, by city and county to 165.1.1, 165.1.3
  - —effective date 165.1.1
  - —eligibility for 165.1.1
  - —firemen, to 169 - 171.1.14
    - —and see infra, Police Department; Police Department (Sections 168.1 - 168.1.1-4)
  - —increases 165.1.1, 165.1.3
  - —members of police department to
    - and see infra, Fire Department; Fire Department (Sections 171.1.1 - 17.1.14)
  - —miscellaneous officers and employees retired prior to July 1, 1947 165.1.3
  - —options 165.1.1
  - —reserves, transfer of 165.1.1, 165.1.3
- Compensation earnable, defined 35.5.1, 36.2, 165.2(A)
- Contributions to
  - —city and county, by 161.1, 161.2, 165.1.3, 166, 168.1.5.1, 168.1.16, 168.1.17, 169
  - —court employees 158.3
  - —elective officers 158.2
  - —military service, contributions by members in 161.1
  - —municipal court personnel 158.3
  - —refund to servicemen of amounts payable by City and County 161.2
  - —servicemen, contributions by 161.1
  - —superior court personnel 158.3
- Court personnel as members 158.3
- Disability benefits for police and firemen, reimbursement to system for 172
- Elective officers 158.1, 158.2

SECTION

RETIREMENT SYSTEM—(Continued)

Fire department
  —death after retirement not from illness or disability in service 171.1.5
Fire department (Sections 171.1 - 171.1.14)
  —age of retirement 171.1.2
  —compulsory retirement 171.1.2
  —computation of service 171.1.9
  —conflicts in charter sections, effect 171.1.13
  —contributions 171.1.10, 172
  —refund 171.1.8
  —death allowance
    —death from performance of duty 168.1.5.1, 168.1.16, 168.1.17, 171.1.4
  —death not from performance of duty
    —after qualification for service retirement under 171.1.2 .... 171.15
    —after retirement 171.1.5, 171.1.7
    —before qualification for service retirement 171.1.7
    —before retirement 171.1.7
    —definitions of term 171.1.1, 171.1.5
    —election, by guardian, parent, surviving spouse 171.1.5
    —time of marriage of widow to decedent 171.1.4, 171.1.5
    —workmen's compensation, effect 171.1.6
  —disability benefits to members as reimbursed to retirement system 172
  —effective date 171.1.14
  —employment in department, cessation of 171.1.8
  —gainful occupation after retirement, effect 171.1.12
  —members of system 171.1
    —definition 171.1.1
  —official service after retirement, prohibition of 171.1.12
  —options
    —membership in system 171.1.1
    —retirement 171.1.2
  —refund of contributions 171.1.8
  —retirement allowance 171.1.2
    —definition 171.1.1
    —incapacitated, when 171.1.3
    —injury, on retirement for 171.1.3
    —workmen's compensation, effect 171.1.6
  —service
    —computation of 171.1.9
    —disability period, service credit for 172
    —period of 171.1.2
  —severability clause 171.1.13
  —standardization of pay rates, effect of 36.2
  —transfer to other office or department, rights on 171.1.8
  —vesting of rights 171.1.11
  —workmen's compensation, effect 171.1.6
Meaning of term .... 165.2(A), 168.1.1, 171.1.1
Members 158, 158.1, 158.2, 158.3, 165
  —court personnel as 158.3
  —elective officers 158.1, 158.2
  —municipal court personnel as 158.3
  —option as to membership, elective officers 158.1, 158.2
  —superior court personnel as 158.3
Military service as affecting continuous service under 161

SECTION

RETIREMENT SYSTEM (Continued)

Miscellaneous officers and employees retired prior to July 1, 1947, increase for.......165.1.3
Municipal court personnel as members....... 158.3
Police department.......165, 166, 168, 168.1 - 168.1.17
Police department (Sections 168.1 - 168.1.14)
- —adjustment of allowances.......168.1.5.1, 168.1.16, 168.1.17
- —age of retirement.......168.1.2, 168.1.16, 168.1.17
- —completion of years of service, effect.......168.1.11
- —compulsory retirement.......168.1.2, 168.1.16, 168.1.17
- —computation of service.......168.1.9
- —conflicts in charter sections, effect of.......168.1.13
- —contributions 168.1.10, 172
  - —refund 168.1.8
- —death allowance
  - —adjustment to amount based on Police Officer compensation.......168.1.5.1, 168.1.16, 168.1.17
  - —death from performance of duty.......168.1.4, 168.1.5.1, 168.1.16, 168.1.17
  - —death not from performance of duty
    - —after retirement.......168.1.5, 168.1.5.1, 168.1.16, 168.1.17, 168.1.7
    - —before retirement.......168.1.7, 168.1.16, 168.1.17
  - —definition 168.1.1
  - —election by wife or by guardian of child as to payment.......168.1.5, 168.1.16, 168.1.17
  - —reduction of.......168.1.5, 168.1.16, 168.1.17
  - —time of marriage of widow to decedent.......168.1.4, 168.1.5, 168.1.16, 168.1.17
  - —workmen's compensation, effect.......168.1.6
- —definition of terms.......168.1.1
- —disability benefits to members as reimbursed to retirement system 172
- —effective date 168.1.14
- —employment in department, cessation of.......168.1.8
- —gainful occupation after retirement, effect.......168.1.12
- —increase of allowances.......168.1.5.1, 168.1.16, 168.1.17
- —members of system....... 168.1
  - —definition 168.1.1
- —official service after retirement, prohibition of.......168.1.12
- —options
  - —membership in system....... 168.1
  - —retirement.......168.1.2, 168.1.16, 168.1.17
- —refund of contributions.......168.1.8
- —retirement allowances.......168.1.2, 168.1.16, 168.1.17
  - —adjustment based on fifty per cent monthly compensation.......168.1.5.1, 168.1.16, 168.1.17
  - —definition 168.1.1
  - —incapacitated, when.......168.1.3, 168.1.5.1, 168.1.16, 168.1.17
  - —injury, on retirement for.......168.1.3, 168.1.5.1, 168.1.16, 168.1.17
  - —workmen's compensation, effect.......168.1.6
- —service
  - —computation of.......168.1.9
  - —disability period, service credit for....... 172
  - —period of.......168.1.2, 168.1.16, 168.1.17
- —severability clause 168.1.13
- —standardization of pay rates, effect of....... 35.5.1
- —transfer to other office or department, rights on.......168.1.8

SECTION

RETIREMENT SYSTEM (Continued)
—vesting of rights 168.1.11
—workmen's compensation, effect 168.1.6
Reserves, adjustment and transfer for increase in police allowances 168.1.5.1, 168.1.16, 168.1.17
Services included or excluded
—court personnel 158.3
—municipal court personnel 158.3
—superior court personnel 158.3
Superior court personnel as members 158.3
War
—definition of for computing continuous service 161
—serving under order of United States or California during time of as affecting continuous service 161
War effort service as affecting continuous service under 161

REVIEW
Residence authorizations of officers and employees 7

SALARY
Board of Education 134

SALARY ORDINANCE
Annual 73
Fire department salaries included 36.2
Police department salaries included 35.5.1

SALE
Park or recreation, land not needed for 41.1
Real property
—limitation on use of proceeds 92

SCHOOLS: SCHOOL DEPARTMENT
Employees
—cafeteria employees, continuance under civil service 135.1
Unified school district
—recreational facilities, supervision and direction 42

SHIPS
Service on after September 14, 1940, as absence on military service 161

SINGULAR
Plural, as including 165.2(A), 168.1.1, 171.1.1

STATUTES
Limitation, waiver of 13.1

STREET TRAFFIC ADVISORY BOARD
Abolition of 1948 amendment 61

SUBSURFACE PARKING STATIONS
Parks, under 42

SUPERINTENDENT
Park department, of 41
Recreation department, of 41

SECTION

SUPERINTENDENT OF SCHOOLS
- Assistant superintendents, qualification of 136
- Associate superintendents, qualification of 136
- Confidential secretary, authority to appoint 136

SUPERIOR COURT
- Maintenance, supervisors to provide for 56
- Powers and duties prescribed by law 56
- Retirement system membership by personnel of 158.3
- Secretary-jury commissioner, provision omitted by 1948 amendment 56

TERMINATION
- Retirement allowance, on cessation of disability 168.1.3, 171.1.3

TERMS OF OFFICE
- Mayor 5, 5.1
- Successive terms by mayor, limitation as to 5.1

TESTS
- Civil service applicants 145, 145.01

TIME OF WAR
- Definition of 145.01

TRAFFIC. See Bureau of Traffic Engineering and Administration

TRAFFIC BUREAU. See Bureau of Traffic Engineering and Administration
- Establishment 35

TRAFFIC DIRECTOR. See Bureau of Traffic Engineering and Administration

TRANSPORTATION
- Acquisition by City and County
  - —California Street Cable Railroad unification, see that title

TREASURER
- Deposit of moneys, governed by general law 82

VACATIONS
- Employees whose pay rate is fixed under 151.3 .... 151.5(a), 151.5(b)
- Salary allowance for 151, 151.4

VETERANS
- Civil service appointment
  - —credits allowable 145, 145.01

WAR
- Definition of for computing continuous service under retirement system 161
- Time of, defined 145.01

WAIVER
- Limitations, statutes of 13.1

SECTION

WIDOWS

Policemen, of, retirement benefits and allowances to
election as to payment of 168.1.5, 168.1.16, 168.1.17

WORDS AND PHRASES

Benefit .... 165.2(A), 168.1.1, 171.1.1
Charter .... 165.2(A), 168.1.1, 171.1.1
Compensation .... 165.2(A), 168.1.1, 171.1.1
Compensation earnable .... 165.2(A), 168.1.1, 171.1.1
Death allowance 161.1.1, 171.1.1
Final compensation 168.1.1, 171.1.1
Interest .... 165.2(A), 168.1.1, 171.1.1
Masculine gender, words in, as including feminine
and neuter .... 165.2(A), 168.1.1, 171.1.1
Member 168.1.1, 171.1.1
Plural as including singular .... 165.2(A), 168.1.1, 171.1.1
Retirement allowance .... 165.2(A), 168.1.1, 171.1.1
Retirement board .... 165.2(A), 168.1.1, 171.1.1
Retirement system .... 165.2(A), 168.1.1, 171.1.1
Singular as including plural .... 165.2(A), 168.1.1, 171.1.1
System .... 165.2(A), 168.1.1, 171.1.1

WORKMEN'S COMPENSATION

Compensation under Retirement System
distinguished .... 165.2(A), 168.1.1, 171.1.1
Disability benefits to police and firemen concurrent
or in lieu of 172
Firemen
—allowance under § 171.1 as affected by 171.1.6
—disability benefits for, concurrent or in lieu
of compensation 172
Policemen
—allowance under § 168.1 as affected by 168.1.6
—disability benefits for, concurrent or in lieu
of compensation 172

ZONING

Hearings 117, 117.1
Rules after comprehensive zoning ordinance
—hearings and notice thereof
—postponement of 117.1
Rules pending revised ordinance
—hearings
—postponement of 117

TABLE OF DELETIONS FROM "INDEX" NECESSITATED BY 1948-53 AMENDMENTS TO CHARTER

[References are to pages of the original "INDEX" and to lines thereon counted from the top of the page, except as otherwise stated. The lines indicated are to be deleted. Substitute lines, where propr, are supplied by the "CUMULATIVE SUPPLEMENTAL INDEX TO CHARTER."]

PAGE	LINE(S)
3	9, 10, 14, 33, 35
4	20
5	28
8	18
10	19, 24, 36
12	5 from bottom
14	16, 19, 36
15	2
16	12
19	5, 34, 35, 42
20	5
22	5 from bottom
23	3, 8, 18 from bottom
24	29
25	16, 19
26	24
28	15, and 38
29	5, 7, 10, 13, 17, 33, 36, and 53
31	19, 21, and 55
32	3, 4, 12, 13, and 15
33	9, 27 from bottom
34	16, 37, 41 and 52
36	36, 37, 38, 39
38	21, 37, 42, 46, and 51
39	1, 3, 4, 7 from bottom
41	5
43	11, 15, 16, 45, 46
47	23
49	12 from bottom
50	15 from bottom
52	2, 3, 35, 36
53	2 from bottom
54	3, 4, 5, 19, 34, 41
55	7
56	27
57	11, 13, and 18
58	2, 3
59	28
60	6 from bottom
61	2, 34
62	16 from bottom
63	5
65	33, 55
67	33
68	44
69	3, 6, and 35
70	36
71	8, 11 from bottom
72	31
76	10

TABLE OF DELETIONS FROM "INDEX" NECESSITATED BY 1948-53 AMENDMENTS TO CHARTER

(Continued)

PAGE	LINE(S)
77	17 from bottom
79	8
80	33
81	33
82	28, 36, 37, 38, 39, 40, 41, 42
84	17 from bottom
85	18, and 20
86	2, 34, 42, 44, 45, 47, 48
87	2, 3, 5, 6, 7, 8, 10, 16
101	17, 27, 38, and 40
103	4, 5, 6, 7, 8, 5 from bottom
106	13, 18, 31, 34
107	2, 6, 22, 38, 39, 41, and 45
108	4-6, 8, 11, 13, 14, 18
110	23, 37, 38, 49
113	2
115	1-4 from bottom
116	11, 12, 27, 29, 30, 32, 33, 35, 36, 37, 40, 42, 44, 47, 49
117	4, 5, 6, 7, 8, 9, 17, 30
119	12, 27
120	30
121	8
128	4 from bottom
124	17, 45 and 46
126	7, 9, 12, 17, 18, 21, 22 from bottom
127	1, 6-11

SUPPLEMENTAL DIGEST

CUMULATIVE SUPPLEMENTAL DIGEST

§ 2. Powers of the City and County.

Const. art xi, § 6, as amended in 1914, had the effect of eliminating the previous requirement that the state must specifically grant powers to the municipality; and consequently, from the effective date of the amendment, charters are recognized as limitations, rather than grants of power as to municipal affairs. **Franklin v. Peterson** (1948) 87 Cal. App. (2d) 727, 197 Pac. (2d) 788.

Const. art. xi, § 8½, covers only a small part of the powers that may be set forth in a city charter, and does not preclude inclusion in a charter of matters not therein enumerated. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

The power of a municipal corporation operating under a freeholder's charter to impose taxes for revenue purposes is strictly a municipal affair pursuant to the direct grant of Const., art. xi, § 6, and the restrictions on the exercise of that power are only the limitations and restrictions appearing in the constitution and in the charter. **Ainsworth v. Bryant** (1949) 34 Cal. (2d) 465, 211 Pac. (2d) 564, on hearing after 90 ACA 770, 203 Pac. (2d) 836.

A city's power to levy a "purchase and use tax" on the retail purchase of tangible personal property includes the power to use reasonable means to effect its collection. **Ainsworth v. Bryant** (1949) 34 Cal. (2d) 465, 211 Pac. (2d) 564, on hearing after 90 ACA 770, 203 Pac. (2d) 836.

The provisions of a freeholder's charter with respect to matters which are municipal affairs of which the control is given to the city by the provisions of such charter are made paramount and controlling over general state laws by the 1896 amendment of Const., art. xi, § 6. **City of San Diego v. Southern Cal. Tel. Co.** (1949) 92 Cal. App. (2d) 793, 208 Pac. (2d) 27.

A city is vested with general power to require the removal of obstructions and encroachments such as are constituted by telephone installations maintained in its streets without authority. **City of San Diego v. Southern Cal. Tel. Co.** (1949) 92 Cal. App. (2d) 793, 208 Pac. (2d) 27.

The secondary use of city streets for the maintenance of telephone installations is a municipal affair within the meaning of Const., art. xi, § 6, as amended in 1896; and where control over its streets was delegated to a charter city at the time when the state's offer of the use of the roads and highways was first made to telephone companies in the 1905 amendment of Civ. Code, § 536, the provisions of the city charter are controlling over a claim of right to erect and maintain such installations arising from and based on § 536. **City of San Diego v. Southern Cal. Tel. Co.** (1949) 92 Cal. App. (2d) 793, 208 Pac. (2d) 27.

Where the control of a city's streets with respect to use thereof for the erection and maintenance of telephone installations was granted by charter prior to the 1905 amendment of Civ. Code, § 536, whereby the state authorized such use directly, the city had power to grant a valid franchise for such use of its streets for a period of years, notwithstanding a charter provision that such rights should remain subject to repeal or modification at any time, and a telephone company operating under such franchise before 1905 continued to operate under and subject to it after such amendment of 1905, and commits a public nuisance by maintaining such installation after expiration of such franchise or a renewal thereof. **City of San Diego v. Southern Cal. Tel. Co.** (1949) 92 Cal. App. (2) 465, 208 Pac. (2d) 27.

Where a telephone system is maintained in an area prior to the annexation of such area to a city having charter power to regulate the use of its streets for telephone purposes, the telephone company acquires a state franchise as to its installations in such area through its acceptance of the offer made by Civ. Code, § 536, as amended in 1905, and the vested rights acquired under such franchise may not thereafter be interfered with by local authority upon the annexation of such area to such city and are not lost by subsequently acting for a time in compliance with a franchise issued by such city covering such installations as well as those which such city has power under its charter to control by franchise. **City of San Diego v. Southern Cal. Tel. Co.** (1949) 92 Cal. App. (2) 465, 208 Pac. (2d) 27.

The question of the elimination of grade crossings is a matter of state concern (Code Civ. Proc., § 1240), but the vacation of public streets falls within the scope of municipal affairs and it may be made without the consent of the railroad commission unless it interferes with the operation of a railroad. **Constantine v. City of Sunnyvale** (1949) 91 Cal. App. (2d) 278, 204 Pac. (2d) 922.

A municipality may divide land into districts and prescribe regulations governing the uses premitted therein, and zoning odrinances, when reasonable in object and not arbitrary in operation, constitute a justifiable exercise of police power. **Lockard v. Los Angeles** (1949) 33 Cal. (2d) 453, 202 Pac. (2d) 38.

A municipality may restrict and make additional qualifications in a field which general laws already cover, such as that pertaining to use of indecent language. **Borah, in re** (1949) 92 Cal. App. (2d) 826, 208 Pac. (2d) 405.

In a case wherein the penal clause of an ordinance is not in excess of the ordinary punishment, such as is provided in Pen. C. § 19, a municipality may pass ordinances covering similar offenses and provide for greater punishment than a statute if the offense is not precisely the same offense covered by the statute. **Borah, in re** (1949) 92 Cal. App. (2d) 826, 208 Pac. (2d) 405.

If an ordinance is defeated on referendum the city council cannot enact another in all essential features like the one repealed, but may deal with the subject matter of the suspended ordinance, and may, if not in bad faith with intent to evade the referendum's effect, enact an essentially different ordinance. **Gilbert v. Ashley** (1949) 93 Cal. App. (2d) 414, 209 Pac. (2d) 50.

It is within the power of a city to modify its plan for pensioning employees on retirement to provide that, after the effective date of the amendment, an employee who was entitled to retire at that time may do so or not, as he sees fit, but that if he chooses to continue as an employee he cannot thereby earn additional pension as he could have done prior to such provision, since the employee has a vested right only to a substantial and reasonable pension. **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

The wisdom or expediency of annexation by a municipal corporation is political and not judicial, and a city's motives in annexing territory cannot be inquired into by the courts so long as it proceeds according to established law. **City of Burlingame v. San Mateo County** (1949) 90 Cal. App. (2d) 705, 203 Pac. (2d) 807.

The resolution of a board of supervisors vacating a public road and cutting off plaintiff's access to their land was a valid legislative act within the board's discretion. **Cramer v. County of Los Angeles** (1950) 96 Cal. App. (2d) 255, 215 Pac. (2d) 417.

A municipality under a charter has power to enact ordinances relating to municipal affairs which prevail over acts of the legislature inconsistent therewith, but whether a matter is a municipal affair is for the determination of the courts and if there is any reasonable doubt concerning this question it is resolved against the municipality. **Dairy Bell Farms v. Brock** (1950) 97 Cal. App. (2d) 146, 217 Pac. (2d) 704.

A city ordinance is within the legislative power which requires every city employee to declare whether he is or was in the prior five years a member of the Communist Party or Communist Political Association, and to aver that in such period he has not advocated overthrow of the government by force, violence, or unlawful means, is not and has not in such period been a member of an organization or party advocating such overthrow, and that while in the city's employ he will not advocate such overthrow, nor become a member of an organization which does. **Garner v. Board of Public Works** (1950) 98 Cal. App. (2d) 493, 220 Pac. (2d) 598.

A lease requiring a county to pay an amount in excess of its constitutional debt limitation for the privilege of occupying a court building to be constructed on its side by the "lessor," is not invalid, since the county's duty of providing adequate quarters for courts is mandatory and the obligation represented by the contract is one imposed by law and not an indebtedness within the constitutional limitation. **County of Los Angeles v. Byram** (1951) 36 Cal. (2d) 694, 227 Pac. (2d) 4.

A lease requiring a county to make monthly payments to a building owner which in themselves are less than the county's constitutional debt limitation is not invalid although the total of contemplated payments exceeds the limit. **County of Los Angeles v. Byram** (1951) 36 Cal. (2d) 694, 227 Pac. (2d) 4.

By virtue of the grant by the state to the city of title to tidelands and submerged lands within the boundaries of the city in trust for harbor development purposes, the city is empowered to exploit the petroleum products thereon, but all money derived from such exploitation must be paid into one of the three funds for trust purposes. **Trickey v. Long Beach** (1951) 101 Cal. App. (2d) 871, 226 Pac. (2d) 694.

The city's charter is not a grant of powers to the municipality. **Los Angeles v. Tannahill** (1951) 105 Cal. App. (2d) 541, 233 Pac. (2d) 671.

The power for levying taxes is a constitutional grant which is not limited by the charter, but is accentuated by that instrument which details the city's powers of assessing, collecting and enforcing taxes and licensing and regulating any lawful business and imposing license fees. **Los Angeles v. Tannehill** (1951) 105 Cal. App. (2d) 541, 233 Pac. (2d) 671.

Cited without particular application. **Madison v. San Francisco** (1951) 106 Cal. App. (2d) 232, 234 Pac. (2d) 995.

§ 5. Elective Officers and Terms

Cited without particular application. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 7. Qualifications of Officers and Employees

When a person ceases to work outside the city and county limits on a public utility acquired by the city and county, his privilege under § 125 of living outside the city and county limits ceases; he then has a reasonable time to comply with the residence requirements prescribed by this section, which time by analogy may properly be measured by the provision of § 125 specifying "not exceeding one year." **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

Since this section provides only one penalty for its violation, removal from office or employment, the Civil Service Commission's order that an employee be not so removed is inconsistent with a finding that he has violated the section; upon appeal, therefore, of a mandamus proceeding to compel reinstatement of an employee discharged by the manager of utilities for an alleged violation, a Commissioners' finding that there has been no violation is presumed in support of the Commission's order. **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

Support for an implied finding of the Civil Service Commission that an employee did not violate this section by living outside San Francisco may be found in the fact that from the record before it the Commission might reasonably conclude that the condition of ill health of the employee's wife would have supported medical authorization for so living, which the employee might have earlier secured, and which he did without difficulty secure once its necessity was called to his attention, but for the acquiescence of his superiors in face of their knowledge of his residence in another city. **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The filing of the authorization required by this section for living outside the city and county limits is a mere procedural requirement, distinct from the substantative requirement of ill health justifying residence outside San Francisco, and the assertion of it may be subject to the doctrine of estoppel. **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The authorization to live outside San Francisco, provided for by this section, may be accepted by the Civil Service Commission in the same form retroactively as prospectively. **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

§ 18. Powers and Duties of County Officers

No presumption of irregularity or failure to perform official duty may be indulged against municipal or public officers. **Patton v. San Diego County,** 106 Cal. App. (2d) 467, 235 Pac. (2d) 217.

§ 20. Powers and Duties of Department Heads

This section gives a department head broad power in the reduction of forces under his jurisdiction and the budget-making procedure, as exemplified by §§ 69, 70, 72, is in accord therewith. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

Although this section permits a department head to effect a reduction of employees in his department pursuant to his judgment as to the needs of the work, "any other provision of this charter to the contrary notwithstanding," this does not mean that the department head is subject to no limitation under civil service regulations, for under the authority of this same section he must have due regard for civil service procedure on the subject of personnel classification and protected tenure in office for employees. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 30. Warrant and Bond Office

The provision of § 34 requiring assistant attorneys in the district attorney's office to have two-years' experience has no appliaction to the deputy in charge of the warrant and bond office under this section nor to his assistants and clerks. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

So far as any charter requirement is concerned, "assistants and clerks" under this section do not have to be attorneys or to meet the two-years' experience requirement of § 34 for assistant attorneys in the district attorney's office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Attorneys appointed by the district attorney and designated on the proper civil service form as "K 52 Junior Attorney, Criminal, Bond and Warrant Clerk)" were appointed as warrant and bond clerks under this section, rather than as assistant attorneys under § 34; hence the fact that the attorneys did not meet the two-year qualification requirement under § 34 for assistant attorneys did not render their appointment unlawful. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Appointments as assistants or clerks under this section, being valid when made, were not adversely affected by the fact that appointees performed some duties that they were not qualified to perform, namely, some legal duties and occasional appearances in traffic court as representatives of the district attorney. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In appointing assistants and clerks under this section, the district attorney acts as a county officer. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

The warrant and bond office, under this section, is separate and distinct from the district attorney's office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

By deciding to appoint only attorneys for certain jobs as assistants or clerks under this section, the district attorney was not attempting to change the position from that of clerk in the warrant and bond office to assistant attorney in his own office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

§ 34. Assistants and Employees in Elective Offices

The provision of this section requiring assistant attorneys in the district attorney's office to have two-years' experience has no application to the deputy in charge of the warrant and bond office under § 30 nor to his assistants and clerks. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

So far as any charter requirement is concerned, "assistants and clerks" under § 30 do not have to be attorneys or to meet the two-years' experience requirement of this section for assistant attorneys in the district attorney's office. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Attorneys appointed by the district attorney and designated on the proper civil service form as "K 52 Junior Attorney, Criminal (Bond and Warrant Clerk)" were appointed as warrant and bond clerks under § 30, rather than as assistant attorneys under this section; hence the fact that the attorneys did not meet the two-year qualification requirement under this section for assistant attorneys did not render their appointment unlawful. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

§ 53. Municipal Court

The 1949 amendment of CCP § 89 increasing the jurisdiction of municipal courts to include actions involving $3000, disclosed no intent to make it retroactive. **Dillon v. Superior Court** (1950) 98 Cal. App. (2d) 437, 220 Pac. (2d) 553.

The primary purpose in creating municipal courts was to relieve the congestion in the superior court. **Villanazul v. Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

Municipal courts are courts of record, and their process, like that of justices' courts, extends throughout the state. **Villanazul v. Los Angeles** (1951) 38 Cal. (2d) 718, 235 Pac. (2d) 16.

Generally speaking, the municipal court's jurisdiction extends throughout the county, and in a certain class of cases that jurisdiction is exclusive. **Villanazul v. Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

Whenever a municipal court is established, it supersedes the justice's court maintained by the county, and the police court provided by the city which formerly served the area; it is required to perform the services that were part of the duty of the courts which it succeeded, and to exercise and enlarge the jurisdiction. **Villanazul v. Los Angeles** (1951) 37 Cal. 718, 235 Pac. (2d) 16.

While a municipal court may be established in a city only with the consent of the electors thereof, expressed by charter provisions or popular vote (2 Deering's Gen. Laws, Act. 5238, §§ 1-3), the character of a municipal court is not affected nor is its nature determined by the requirement that the city must assent to its establishment. **Villanazul v. Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

The fact that judges of the municipal court are elected by the city's voters is not controlling in determining the court's status, or the status of its employees. **Villanazul v. Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

A municipal court is impressed with a local character, and to some extent that character is dual; in some respects, it has the nature of a county court and, in others, of a city court. **Villanazul v. Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

That a municipal court is essentially a creature of county is indicated by the fact that the county is charged with the cost of maintenance; that it is required to pay the salaries of judges, officers and attaches, and must provide quarters, supplies and equipment for the court; that moneys collected by the court are deposited with the county treasurer and divided between the county and city; and that in various other respects the law places municipal court officers and attaches in the same category as recognized county officers and employees, whereas the city aspects of municipal courts are extremely limited and insignificant. **Villanazul v. Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

A municipal court is a part of the judicial system of the state, and the constitution or control of such courts, except only the question as to whether one shall be established in a given locality, is a state rather than a municipal affair. **Villanazul v .Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

A county is liable for damages resulting from the negligent operation of a motor vehicle by a deputy marshal of a municipal court within the county. **Villanazul v. Los Angeles** (1951) 37 Cal. (2d) 718, 235 Pac. (2d) 16.

§ 16. Administrative Departments under Chief Administrative Officer

Cited without particular application. **Madison v. San Francisco** (1951) 106 Cal. App. (2d) 232, 234 Pac. (2d) 995.

§ 69. Budget estimates

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

The budget-making procedure, of which this section is a part, is in accord with § 20 in giving a department head broad power in effecting the reduction of forces under his jurisdiction. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 70. Form of Budget estimates.

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126,231 Pac. (2d) 75.

The budget-making procedure, of which this section is a part, is in accord with § 20 in giving a department head broad power in effecting the reduction of forces under his jurisdiction. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 71. Personal service estimates

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

§ 72. Adoption of the budget and the appropriation ordinance

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

The budget-making procedure, of which this section is a part, is in accord with § 20 in giving a department head broad power in effecting the reduction of forces under his jurisdiction. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 73. Annual salary ordinance

In determining the question of the personal liability of the controller for the allowance, and the treasurer for the payment, of salary claims illegally approved by an appointing officer, § 150 and this section must be read with § 86. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In allowing and paying salary claims, the controller and the treasurer are not required under § 86, when read together with § 150 and this section, to pass upon the legality of the claimant's appointment; they are simply required to see to it that payments are not made unless they comply with procedure set up in the charter; they are not required to go beyond the certifications of the department head and the secretary of the commission as to the legality of the appointment. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

§ 78. Tax levy

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

§ 85. Expenditures and Payment of Claims

An injunction will not issue, on the complaint of a taxpayer to restrain a board of supervisors from approving and ordering the payment of an appropriation to the county supervisor's association where, prior to the hearing, defendant board had made the appropriation and ordered the warrant for the amount thereof drawn, the county auditor had delivered the warrant to the payee, and the county treasurer was not a party to the action. **Citizens, Etc. Pensions v. Board of Supervisors** (1949) 91 Cal. App. (2d) 658, 205 Pac. (2d) 761.

§ 86. Limitation on Incurrence of Liabilities

While this section, in imposing liability on public officers for demands illegally approved, allowed or paid, may be paramount to state law as to municipal affairs, it is not paramount as to matters of state concern. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

This section is invalid insofar as it attempts (if it does attempt) to impose absolute liability on the district attorney for erroneous discretionary acts performed in good faith within the scope of his authority without malice, corruption or sinister motives. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In determining the question of the personal liability of the controller for the allowance, and the treasurer for the payment, of salary claims illegally approved by an appointing officer, §§ 150 and 73 must be read with this section. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

In allowing and paying salary claims, the controller and the treasurer are not required under this section, when read with §§ 150 and 73, to pass upon the legality of the claimant's appointment; they are simply required to see to it that payments are not made unless they comply with procedure set up in the charter; they are not required to go beyond the certifications of the department head and the secretary of the commission as to the legality of the appointment. **Galli v. Brown** (1952) 110 Cal. App. (2d) 764, 243 Pac. (2d) 920.

§ 87. Limitations of Claims for Damages

Gov. Code, § 1981, requiring claims for damages resulting from the negligence of city officers or employees to be filed with the city clerk, applies only to cases where it is proper to hold the city liable, but not where individual councilmen are chargeable with liability; therefore, it was proper to serve each councilman with a claim for damages under Gov. Code, § 1954 providing for the liability of individual members of a city council for their negligence in appointing and retaining incompetent employees. **Abrahamson v. Ceres** (1949) 90 Cal. App. (2d) 523, 203 Pac. (2d) 98.

Gov. Code, § 1981, relating to presentment of claims to a municipal employee for injuries resulting from the negligence of such employee, does not apply to acts of a municipal employee in an action for injury against the municipal corporation for injury resulting from the negligence of the employee. **Tyree v. City of Los Angeles** (1949) 92 Cal. App. (2d) 182, 206 Pac. (2d) 912; **Saldana v. Los Angeles** (1949) 92 Cal. App. (2d) 214, 206 Pac. (2d) 866.

Gov. Code, § 1981 does not apply to or control claims or actions against a public agency. (Disapproving Johnson v. Fresno County (1944) 64 Cal. App. (2d) 576, 149 Pac. (2d) 98, and **Abrahamson v. Ceres** (1949) 90 Cal. App. (2d) 523, 203 Pac. (2d) 98.) **Ansel v. San Diego** (1950) 35 Cal. (2d) 76, 216 Pac. (2d) 455, on hearing after 93 ACA 866, 209 Pac. (2d) 618; **Glenn v. Los Angeles** (1950) 96 Cal. App. (2d) 86, 214 Pac. (2d) 533; **Mendibles v. City of San Diego** (1950) 100 Cal. App. (2d) 502, 224 Pac. (2d) 42.

An action may be maintained against a city for damages caused by the negligent operation of a motor vehicle by an employee of the city without filing a claim where the sole basis of liability of the city is **respondeat superior**, and there is no claim that the negligence consisted of a dangerous or defective condition of any city property or works. **Holm v. San Diego** (1950) 35 Cal. (2d) 399, 217 Pac. (2d) 972, on hearing after 93 ACA 269, 208 Pac. (2d) 777.

Substantial compliance suffices to satisfy the claim statutes with reference to claims against a city or city employee, since the chief purpose of the claim requirement is to enable the city to make an investigation of the claim and give it an opportunity to settle without litigation. **Holm v. San Diego** (1950) 35 Cal. (2d) 399, 217 Pac. (2d) 972, on hearing after 93 ACA 269, 208 Pac. (2d) 777.

In an action for personal injuries against a municipality, where plaintiff's claim had been rejected, he was not limited to the amount of the claim, since such claims must be filed often before the extent of the injury is known and to limit recovery would induce the filing of excessive claims and tend to defeat the purpose of the claim provision **Sullivan v. San Francisco** (1950) 95 Cal. App. (2d) 745, 214 Pac. (2d) 82.

In an action against the city involving the alleged negligence of the operator of a municipal streetcar, it was not error to refuse the municipality permission to present evidence showing that the plaintiff's claim had not been properly verified, where the verification was proper on its face, since the purpose of the charter requirement for verification had been served in that the municipality was enabled to make a full investigation of the claim, and the verification was sufficient to support any charge of perjury if there were any false matters stated in such claim. **Germ v. City & County of San Francisco** (1950) 99 Cal. App. (2d) 404, 222 Pac. (2d) 122.

The filing of a written, verified claim, as required by a charter provision, is a condition precedent to the maintenance of an action against the city or an officer thereof upon a claim for damages founded in tort. **Klimper v. City of Glendale** (1950) 99 Cal. App. (2d) 446, 222 Pac. (2d) 49; **Slavin v. City of Glendale** (1950) 97 Cal. App. (2d) 407, 217 Pac. (2d) 984.

The requirement under this section that claims for damages against the city and county must be presented to the controller within sixty days after approval does not apply to a claim based upon alleged violation of an agreement under which plaintiff deposited money with the city which he later sued to recover. **Bertone v. San Francisco** (1952) 111 Cal. App. (2d) 579, 245 Pac. (2d) 29.

The principal purpose of the requirement of the Los Angeles Charter that claims be filed is to provide the city with full information concerning rights asserted against it so that it may settle those of merit without litigation; that purpose is best served if the entire sequence of events giving rise to the injury is regarded as the occurrence from which the damage arose, for damages can be assessed accurately only when the sequence is completed and the total injury taken into account. **Natural Soda Products Company v. Los Angeles** (1952) 109 Cal. App. (2d) 440, 240 Pac. (2d) 993.

The purpose of filing a claim is to give the municipality or other public agency timely notice of the nature of the claim, with the particulars required by law, so that the authorities may make an investigation and determine upon a course of action with respect to such claim. **Erde v. Los Angeles** (1953) 116 ACA 636, 254 Pac. (2d) 110.

In a case of continuing damage, a purpose behind the requirement of filing a claim is to give the city an opportunity to provide protection against damage by the continued acts complained of, should it deem itself liable. **Natural Soda Products Company v. Los Angeles** (1952) 109 Cal. App. (2d) 440, 240 Pac. (2d) 993.

Just as the whole is the "occurrence," each part thereof may, at the option of the aggrieved party be the "occurrence." **Natural Soda Products Company v. Los Angeles** (1952) 109 Cal. App. (2d) 440, 240 Pac. (2d) 993.

The requirement of the Los Angeles City Charter that claims be presented within six months after the occurrence from which the damages arose was satisfied by filing on June 9, 1938 a claim for damages for a series of floodings beginning in December, 1937, and continuing through June 7, 1938, and by filing another claim on June 23, 1940 for a series of floodings from June 7, 1938 through June 21, 1940. **Natural Soda Products Company v. Los Angeles** (1952) 109 Cal. App. (2d) 440, 240 Pac. (2d) 993.

§ 91. Purchase, Lease and Sale of Real Property and Improvements

It was held in **Lynch v. City and County of San Francisco,** Superior Court No. 15020, "That the defendant, . . ., as Director of Property and Head of the Real Estate Department of the City and County of San Francisco and his respective successors in office are authorized by the present charter to fix rentals for the renting of said Exposition Auditorium upon such terms and conditions as he sees fit and without any ordinance, resolution or authorization by the defendant, Board of Supervisors, for that purpose." Judgment affirmed in **Lynch v. City and County of San Francisco** (1935) 3 Cal. (2d) 141, 43 Pac. (2d) 538.

§ 95.Public Works and Purchasing Contracts

A city board which has rejected all bids submitted has power thereafter and within the time limited for acceptance of bids, to annul its action, and, if no rights of third persons intervened, to reconsider and award the contract under a charter section (Los Angeles Charter, § 386 (c) (d)) providing that the right to reject any and all proposals shall, in every case, be reserved as shall the right to waive any informality in the bid when to do so would be to the advantage of the city and its taxpayers, and further that after bids and proposals have been opened and declared no bid shall be withdrawn, but shall be subject to acceptance by the city for a period of three months. **Guy F. Atkinson Co. v. Offner** (1948) 86 Cal. App. (2d) 92 (86 ACA 94), 194 Pac. (2d) 33.

Under a city charter provision that public works contracts should be awarded to the "lowest responsible bidder," an invitation for bids reciting that the city commission reserved the right to award a contract in any manner it considered would best serve the interest of the city, and their requirement that the bids be subjected to check and report by the Department of Public Works, where unit price bids were opened and read by the commission only by totals, the commission was not bound to accept the lowest bid, and upon a check by the Department of Public Works disclosing that, due to mathematical error in adding the total, another bid was actually lower than that which appeared to be lowest, the commission could legally award the contract to the bidder submitting such lower bid. **Swanson v. Hilderbrand** (1949) 94 Cal. App. 161, 210 Pac. (2d) 95.

§ 101. General Laws Applicable

The legislature may authorize the issuance of municipal bonds approved by the voters, even though the purpose of the proposed indebtedness was unauthorized at the time of the election. **Fairfield v. Hutcheon** (1949) 33 Cal. (2d) 475, 202 Pac. (2d) 745.

Const., art. xi, § 18 prohibiting a city from incurring an indebtedness exceeding in any year the revenue for that year "without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose," does not require that the purpose of the proposed indebtedness be stated to the voters at the time of the election and preclude validation of a bond issue unauthorized at the time of the election; the words "voting at an election to be held for that purpose" refer to "qualified electors thereof" so that the vote required is not two-thirds of all the qualified electors but only two-thirds of those voting at the election, and the words "that purpose" refer to the purpose for which the election is held, namely, that of determining whether or not the required number of electors agree that the indebtedness be incurred. **Fairfield v. Hutcheon** (1949) 33 Cal. (2d) 475, 202 Pac. (2d) 745.

Section 5 of the Validating Act of 1948 (Stats. 1948, p. 146; 3 Deering's Gen. Laws, Act. 8925a) declaring that all "acts and proceedings" previously taken for the authorization or issuance of bonds for "any public purpose," are validated, include the submission of the question whether an indebtedness should be incurred for the purpose of repairing the sewer and water systems, although such purpose may not have been authorized by the Bond Act under which the bonds were issued. **Fairfield v. Hutcheon** (1949) 33 Cal. (2d) 475, 202 Pac. (2d) 745.

Section 8 (a) of the Validating Act of 1948, declaring that the act is limited to the correction of defects, irregularities, omissions and ministerial errors in carrying out statutory provisions which the Legislature originally could have omitted from the law under which acts or proceedings were taken for the issuance of municipal bonds or other public purpose, is not limited in its application to the correction of procedural errors in carrying out the provision of a bond act, in view of a proviso to that section insuring the validation of bonds which were unauthorized at the time of their approval and which the Legislature could have provided for at the time the indebtedness was incurred. **Fairfield v. Hutcheon** (1949) 33 Cal. (2d) 475, 202 Pac. (2d) 745.

§ 107. General Law and Ordinance Procedure for Public Works

The term "utilities" as used in the statutory restriction on the use of a municipal fund established for capital outlays (Stats. 1937, p. 1995, Deering Gen. Laws Act. 8496a) means "public utilities," and does not include sewers; hence such a fund may be used for the construction of sewers. **National City v. Fritz** (1949) 33 Cal. (2d) 635, 204 Pac. (2d) 7.

§ 113. Liability for Damages by Reason of Defective Sidewalks, etc.

A municipality is liable for damages resulting from a defective condition existing in one of its streets in the absence of actual knowledge or notice of the dangerous condition, where a presumption of constructive notice has been created from the existence of the danger for an unreasonable length of time. **Warren v. City of Los Angeles** (1949) 91 Cal. App. (2d) 678, 205 Pac. (2d) 719.

A city is liable for injuries to persons or property lawfully on its public streets only where such injuries result from the dangerous or defective condition of such streets. **Shipley v. City or Arroyo Grande** (1949) 92 Cal. App. (2d) 748, 208 Pac. (2d) 882.

In an action against a city to recover for injuries resulting from a fall on a sidewalk, constructive notice of the defective condition of the sidewalk and of its dangerous character meets the requirements of the Public Liability Act of 1923 (Stats. 1923, p. 675; 2 Deering's Gen. Laws Act. 5619) for injuries resulting from a fall on a sidewalk. **Palmer v. City of Long Beach** (1949) 33 Cal. (2d) 134, 199 Pac. (2d) 952.

§ 119. Public Utility Policy

Sections 118 and 119 of the charter of San Francisco are consistent with and confirm the provisions of Section 105 through 111 and places upon "private persons, firms or corporations" the expense of side sewer construction and repair. **Edward Brown & Sons v. City and County of San Francisco** (1950) 36 Cal. (2d) 272, 223 Pac. (2d) 231, on hearing after 95 ACA 189, 212 Pac. (2d) 562 .

§ 125. Employments

Rule 41 of the Civil Service Commission, providing for petitions for reconsideration of rulings, applies only to original cases, not to a tentative classification in civil service of employees of a public utility acquired by the City and County, and noncompliance therewith does not preclude relief in court on the ground of nonexhaustion of administrative remedies. **Kenney v. Wolff** (1948) 84 Cal. App. (2d) 592, 191 Pac. (2d) 88.

The Civil Service Commission has no authority to fix a short time limit within which employees of a public utility acquired by the City and County shall protest their tentative classifications for employment under penalty of being barred of their guaranteed rights and of seeking relief in court on the ground that they had not exhausted their administrative remedies. **Kenney v. Wolff** (1948) 84 Cal. App. (2d) 592, 191 Pac. (2d) 88.

It is doubtful whether under the language that employees shall be continued in their respective positions, the Civil Service Commission has any discretion in classifying the employees of a public utility acquired by the City and County. **Kenney v. Wolff** (1948) 84 Cal. App. (2d) 592, 191 Pac. (2d) 88.

Interest necessary to justify intervention in action by former employees of the Market Street Railway Company to determine their rights under § 125, see **Keeney v. Wolff** (1948) 88 Cal. App. (2d) 163, 198 Pac. (2d) 582.

Where it was established practice by rule of the San Francisco Public Utilities Commission to give conductors, motormen and bus drivers a priority in the choice of carbarns, runs and vacation periods based upon length of service, and, in determining such length of service, credit to limited tenure appointees under § 145.1 appointed from regular registers "to succeed themselves" in the same positions was given for length of service under the limited tenure appointment, the provision of § 125 recognizing the right to preference in assignment to duty as bus operators based on seniority of service could not be invoked in a mandamus proceeding to compel discontinuance of such practice. **Hart v. Landis** (1951) 103 Cal. App. (2d) 284, 229 Pac. (2d) 380.

Discharge of employees for overage, see notes under § 165.

When a person ceases to work outside the city and county limits on a public utility acquired by the city and county, his privilege under this section of living outside the city and county limits ceases; he then has a reasonable time to comply with the residence requirements prescribed by § 7, which time by analogy may properly be measured by the provision of this section specifying "not exceeding one year." **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The only reasonable construction to be placed on the portion of this section which allows to persons who reside outside of San Francisco and who are not engaged in work on an acquired utility outside of the city and county limits a reasonable time to become residents of San Francisco is that those persons who are engaged in such utility work outside of the city and county limits are not required to become residents of San Francsico in order to retain their positions. **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

§ 130. Rates

The proviso that "should the commission propose a schedule of rates . . . for [a] utility which shall not produce . . . [revenue sufficient to pay the operating expenses of the utility for at least the succeeding fiscal year], it may do so with the approval of the Board of Supervisors by a two-thirds vote and it shall thereupon be incumbent to provide by tax levy for the additional amount necessary to meet such deficit," is inapplicable where under a proposed rate there will be no deficit. Hence, an order fixing an increased fare for the city transportation system becomes effective, although disapproved by the Board of Supervisors by a majority less than a two-thirds majority vote, where the estimated revenue for the next succeeding fiscal year, added to the revenue from the increased fare from the effective date of the new schedule to the end of the current fiscal year, will make a sum in excess of the estimated operating expenses for the next fiscal year. **Hurst v. San Francisco** (1948) 33 Cal. (2d) 298, 201 Pac. (2d) 805

The words "succeeding fiscal year," in paragraph four of the section, means the next complete fiscal year after the date the schedule is fixed, rather than the rest of the fiscal year in which the rate is established. **Hurst v. San Francisco** (1948) 33 Cal. (2d) 298, 201 Pac. (2d) 805.

§ 140. Civil Service

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure of office; to such end, the charter (§§ 140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify positions according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75; **Terry v. Civil Service Commission of San Francisco** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d) 691.

§ 141. Powers and Duties

The action of the Civil Service Commission of the City and County of San Francisco in designating as the cutting off date of a promotional examination the official beginning date of the examination as noted in the scope circular could not be deemed the equivalent of a rule where it did not meet the requirements of section 141 of the charter that changes in rules be published, that one week's notice be given, and that no change in the rules should affect a case pending before the commission. **Ronroy v. Wolff** (1950) 34 Cal. (2d) 745, 214 Pac. (2d) 529, on hearing after 93 ACA 457, 208 Pac. (2d) 1023.

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure of office; to such end, the charter (§§ 140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify positions according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 142. Positions

A city charter provision prohibiting, except as authorized by the city council, the holding of a municipal office by one holding any other public office does not amount to a declaration that all other public offices are incompatible with such municipal office. **Mott v. Horstmann** (1950) 36 Cal. (2d) 388, 224 Pac. (2d) 11.

The doctrine of incompatible public offices applies where the functions of the offices concerned are inherently inconsistent as when they are conflicting interests, or where public policy dictates that one person may not retain both offices. **Mott v. Horstmann** (1950) 36 Cal. (2d) 388, 224 Pac. (2d) 11.

A municipal officer, while fulfilling a contract with another city as a landscape architect on which he was paid on a commission basis and where he hired his own help, was not "holding any office, or position of profit, under the government of this State" within the prohibitory mandate of the charter of the city in which he held office. **Mott v. Horstmann** (1950) 36 Cal. (2d) 388, 224 Pac. (2d) 11.

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure of office; to such end, the charter (§§ 140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify positions according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 143. Creation of Positions

The civil service system rests on the principle of application of the merit system instead of the spoils system in the matter of appointment and tenure of office; to such end, the charter (§§ 140-143) establishes a classified civil service system, with exclusive power in the civil service commission to provide qualified personnel for the various municipal departments and to classify or reclassify according to prescribed duties. **Hanley v. Murphy** (1953) 40 Cal. (2d) 572, 255 Pac. (2d) 1.

§ 144. Applications

Any rule adopted by the Civil Service Commission in the exercise of its powers under this section, must be reasonable and not operate to discriminate unreasonably between qualified applicants for positions; if unreasonable, those discriminated against have been denied the equal protection guaranteed by the state and federal Constitutions. **Terry v. Civil Service Commission of San Francisco** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d) 691.

The requirement of a college education for applicants to take the examination for playground director is a reasonable exercise of the power of the Civil Service Commission, under this section, to adopt rules and regulations fixing the conditions under which applicants may take civil service examinations and to establish educational requirements for certain positions. **Terry v. Civil Service Commission of San Francisco** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d) 691.

A requirement for the position of playground director that university or college education, to be acceptable, must be in universities or colleges on the accepted list of only the Association of American Universities or the Northwestern Association of Secondary and Higher Schools, and the denial of applications on the sole ground that they did not meet this requirement, was an unreasonable discrimination against graduates of schools accredited by other regional associations and an invalid exercise of the power of the Civil Service Commission under this section. **Terry v. Civil Service Commission of San Francisco** (1952) 108 Cal. App. (2d) 861, 240 Pac. (2d) 691.

§ 146.1. Substitute Promotional Examinations for Persons Returning from Service in Armed Forces or Maritime Service

The declaration of Cessation of Hostilities of World War II, issued by the President of the United States on December 31, 1946, was not, and there has not been, a proclamation of peace or termination of the national emergency within the meaning of this section. **Lynch v. City and County of San Francisco** (Apr. 17, 1953) 117 Cal. App. (2d) 347, 255 Pac. (2d) 827.

§ 151. Standardization of compensation

The board of supervisors, in the salary standardization process, engages in a discretionary fact finding process which is legislative in character and therefore within the referendum process. **Collins v. San Francisco** (1952) 112 Cal. App. (2d) 719, 247 Pac. (2d) 362.

A salary standardization ordinance is a proper subject for referendum, although § 179 excludes from referendum those ordinances relative to purely administrative matters, and includes those ordinances involving legislative matters, since the board of supervisors in fixing salaries under this section acts in a legislative capacity. **Collins v. San Francisco** (1952) 112 Cal. App. (2d) 719, 247 Pac. (2d) 362.

Fixing of salaries of county and municipal employees is a legislative function. (Suit under San Diego County Charter). **Carrier v. Robbins** (1952) 112 Cal. App. (2d) 32, 245 Pac. (2d) 676.

The determination of whether the rate of compensation fixed by the board of supervisors under the San Diego County Charter is not less than the prevailing or general current rate of compensation paid by private employers is within the discretion of the board and the courts will not interfere with that determination unless the action taken is fraudulent or so palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law. **Carrier v. Robbins** (1952) 112 Cal. App. (2d) 32, 245 Pac. (2d) 676.

Cited without particular application in **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

§ 151.3. Basis of standardization of compensation of certain employees

Under § 151 which provides that the Board may approve, amend or reject schedules of compensation proposed by the commission, and under this section which provides that a rate of pay fixed by the Board shall be determined on the basis of rates of pay certified by the commission, the charter is prescribing the manner in which the Board shall exercise certain of its powers as contemplated by § 9. **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

The Board of Supervisors must comply with the procedural requirements and time limits prescribed in this section, and it is not the duty of the Board, when amending the annual appropriation and salary ordinances on or before July 25 in any year, to fix the compensation of members of groups or crafts, at the rate established by bargaining agreements if such agreements are executed after the second Monday in July and prior to the adoption of the amendatory ordinances. **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

§ 153 Leaves of Absence

The Declaration of Cessation of Hostilities of World War II, issued by the President of the United States on December 31, 1946, was not, and there has not been, a proclamation of peace or termination of the national emergency within the meaning of this section. **Lynch v. City and County of San Francsico** (Apr. 17, 1953) 117 Cal. App. (2d) 347,255 Pac. (2d) 827.

§ 154. Suspension and Dismissal for Cause

It is not necessary that guilt be established beyond a reasonable doubt in hearing charges against a civil service employee. **Pratt v. Civil Service Commission** (1951) 108 Cal. App. (2d) 114, 238 Pac. (2d) 3.

Circumstantial evidence is sufficient to establish validity of charges against a civil service employee. **Pratt v. Civil Service Com.** 108 Cal. App. (2d) 114, 238 Pac. (2d) 3.

The conclusion of the Civil Service Commission in regard to employee's condition of mind, arrived at after opportunity to observe appearance and demeanor and manner of testifying during hearing of charges, is binding upon the courts in mandamus proceedings to compel reinstatement. **Pratt v. Civil Service Commission** (1951) 108 Cal. App. (2d) 114, 238 Pac. (2d) 3.

Similar charter section construed. **English v. Long Beach** (1952) 114 Cal. App. (2d) 311, 250 Pac. (2d) 298.

Under this section the Civil Service Commission acts de novo on appeal and its order supersedes the order appealed from. **Denton v. City and County of San Francisco** (1953) 119 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The power of the Civil Service Commission upon the appeal provided for by this section is as broad as that of the appointing officer who hears and determines charges, and the Commission, too, may "exonerate, suspend, or dismiss the accused." **Denton v. City and County of San Francisco** (1953) 120 Cal. App. (2d) 369, 260 Pac. (2d) 83.

The limit of 30 days upon the suspension that the appointing officer under this section may impose in the disciplinary proceeding, in which there is no right to hearing unless demanded and no right to appeal, does not apply to the suspension that may result from the more formal proceeding providing for written charges, hearing, and an unqualified right of appeal to the Civil Service Commission. **Denton v. City and County of San Francisco** (1953) 120 Cal. App. (2d) 369, 260 Pac. (2d) 83.

Cited without particular application. **Hanley v. Murphy** (1953 40 Pac. (2d) 572, 255 Pac. (2d) 1.

§ 168.1.3.—Retirement Provisions—Police Department

Similar charter section construed. **Hostetter v. Alderson** (1952) 38 Cal. (2d) 499, 241 Pac. (2d) 230.

§ 168.1.6. Retirement Provisions—Police Department

Similar charter section construed (Sacramento). **Lyons v. Hoover** (1953) 41 Cal. (2d) 145, 258 Pac. (2d) 4.

§ 171.1.3. Future Members of Fire Department

Los Angeles city charter section providing for retirement of firemen disabled in line of duty, does not apply to fireman whose illness is not service connected. **Hostetter v. Alderson** (1952) 38 Cal. (2d) 499, 241 Pac. (2d) 230.

§ 171.1.4. Future Members of Fire Department

Under the Long Beach Charter providing for a death allowance, an instruction to jury that "injury" includes the acceleration or aggrevation of a pre-existing disease to the extent that it becomes disabling or brings about death sooner than it otherwise would have occurred is proper. **Gilman v. Long Beach** (1952) 111 Cal. App. (2d) 747, 245 Pac. (2d) 512.

Upon the marriage of one of two children receiving benefits under the Long Beach Charter § 187 (4), as survivors of a fireman, his portion of the benefits are to be paid to the child remaining unmarried. **Filian v. Long Beach** 109 Cal. App. (2d) 611, 241 Pac. (2d) 56.

§ 171.1.6. Future Members of Fire Department

Similar charter section construed (Sacramento). **Lyons v. Hoover** (1953) 41 Cal. (2d) 145, 258 Pac. (2d) 4.

§ 171.1.9. Pensions and Retirement—Fire Department

A city was estopped to assert that its pension board had about 20 years before invalidly included nine years during which a fireman had been on inactive duty in its determination that he had served the 25 years necessary for retirement on a pension, where he applied therefor at the suggestion of the mayor and the head of the fire department, the board was fully advised of the inclusion, the pension had been paid for about 20 years, and to hold otherwise would result in injustice. **Baird v. Fresno** (1950) 97 Cal. App. (2d) 336, 217 Pac. (2d) 681.

§ 179. Initiative, Referendum and Recall

A salary standardization ordinance is a proper subject for referendum, although this section excludes from referendum those ordinances relative to purely administrative matters, and includes those ordinances involving legislative matters, since the Board of Supervisors in fixing salaries under § 151 acts in a legislative capacity. **Collins v. San Francisco** (1952) 112 Cal. App. (2d) 719, 247 Pac. (2d) 362.

A salary standardization ordinance, not included by name in the exclusions set forth in this section, is not excluded from the referendum process as "Annual budget and appropriation ordinances, supplemental appropriation ordinances, the annual salary ordinance, or ordinances amending the same." **Collins v. San Francisco** (1952) 112 Cal. App. (2d) 719, 247 Pac. (2d) 362.

§ 180. Petitions

A recall in a chartered city is a municipal affair. The city clerk is the exclusive judge of the sufficiency of recall petitions and courts are excluded from inquiry concerning them, except that in case the clerk has acted fraudulently or arbitrarily his action may be controlled by mandamus. **Reites v. Wilkerson** (1950) 95 Cal. App. (2d) 827, 213 Pac. (2d) 773.

If the certification by the city clerk of the results of his examination of petitions for recall shows the entire petitions to contain less than the required number of qualified signatures, the petitions can be amended in the mode prescribed by the charter. **Reites v. Wilkerson** (1950) 95 Cal. App. (2d) 827, 213 Pac. (2d) 773.

§ 225. Headings and Captions

The court takes judicial notice of the provisions of a freeholders' charter. **Thompson v. Los Angeles** (1947) 82 Cal. App. (2d) 45, 185 Pac. (2d) 393.

"In the construction of city charter provisions the rules of statutory construction apply. (**Braun, Bryant & Austin v. McGuire**, 201 Cal. 134 [255 Pac. 808].) Where there is a conflict between two provisions in a statute a specific or special provision controls over a general one. (**City of San Jose v. Lynch**, 4 Cal. (2d) 760, 766 [52 Pac. (2d) 919]; **Division of Labor Law Enforcement v. Moroney**, 28 Cal. (2d) 344 [171 Pac. (2d) 3]; **People v. Moroney**, 24 Cal. (2d) 638 [150 Pac. (2d) 888]; 23 Cal. Jur. 762; and if there is an irreconcilable conflict, 'as a last resort it would be appropriate to apply the rule that the later provision in point of position controls the earlier provision although both are in the same statute and passed at the same time.' (**People v. Moroney**, 24 Cal. (2d) 638, 645 [150 Pac. (2d) 888].)" **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

SUPERSEDED SECTIONS

FIRST SUPPLEMENT TO 1948 EDITION OF CHARTER

This supplement contains:

1. History of Charter Legislation.
2. New and amended Charter sections.
3. Supplemental Index and Table of Deletions.
4. Supplemental Digest.
5. Division sheets captioned:
    a. Supplemental Index.
    b. Supplemental Digest.
    c. Superseded Sections.

SUGGESTIONS FOR USE

In the front of the book substitute the new "History of Charter Legislation" for the one presently contained therein.

Remove all of the Charter sections, or parts thereof, superseded by the Charter sections contained in this envelope and, if it is desired to retain such superseded sections, place them at the back of the book behind the division sheet entitled "Superseded Sections".

Insert at the back of the book the division sheets entitled "Supplemental Index" and "Supplemental Digest" and place behind each of such sheets the material contained in this envelope which falls within each such category.

John R. McGrath
Clerk of the Board of Supervisors

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place. The board shall cause a calendar of the business scheduled for each meeting to be published and shall keep and publish a journal of its proceedings. Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

Suspension and Removal

Section 11. Any elective municipal officer, including municipal court judges, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of a crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part. [*Amended, 1935. See Sect. 11, Art. VI, of the Constitution.*]

DEPARTMENTS UNDER MAYOR

Police Department

SECTION 35. The police department shall consist of a police commission, a chief of police, a police force and such clerks and employees as shall be necessary and appointed pursuant to the provisions of this charter, and shall be under the management of a police commission consisting of three members, who shall be appointed by the mayor, and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock, noon, on the 15th day of January in the years 1942, 1944 and 1945, respectively. The incumbents serving as members of the commission on the effective date of this amendment shall continue to hold their respective positions, subject to the provisions of the charter, for the remainder of the terms for which they have been respectively appointed.

The police commissioners shall be the successors in office of the police commissioners holding office in the city and county at the time this amendment shall become effective, and shall have all the powers and duties thereof, except as in this charter otherwise provided. They shall have power to regulate traffic, including the location and use of traffic control devices for that purpose. [*Amended, 1937; 1943*]

It is the duty of the courts to uphold a resolution of a board of police commissioners if within reason it can be held to coincide with the Constitution, is not in conflict with other legally constituted authority, and is free from ambiguity. **Perez v. Board of Police Commissioners of Los Angeles** (1947) 78 Cal. App. (2d) 638, 178 Pac. (2d) 537.

The fact that the Board of Supervisors deemed it advisable to submit amendments to § 35 and § 36 jointly as a single proposition on the ballot in 1943, did not convert them into a single amendment, and give rise to a patent ambiguity by virtue of the different language with reference to the effective dates of the amendments. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

A charter provision declaring the right of an officer or employee to hold his office is a substantial property right (L. A. Charter, § 202) is not a limitation on a section conferring on the board of police commissioners power to supervise, etc., the department and make and enforce necessary rules and regulations. (L. A. Charter, § 78.) **Perez v. Board of Police Commissioners of Los Angeles** (1947) 78 Cal. App. (2d) 638, 178 Pac. (2d) 537.

A resolution of a police commission forbidding police officers to become members of an organization identified with a labor union or admitting to membership persons not members of the department or not employees of the city, is not subject to the objections that it is arbitrary and unreasonable, that it denies equal protection of the laws, that it is in contravention of the Fourteenth Amendment, that it is a bill of attainder, and that it violates the rights of free speech and free assembly. **Perez v. Board of Police Commissioners of Los Angeles** (1947) 78 Cal. App. (2d) 638, 178 Pac. (2d) 537.

Removal of police officers, see notes under § 155.

SECTION 35.1. The police commission shall appoint a chief of police who shall hold office at its pleasure. [*New section, 1943*]

SECTION 35.2. All positions in the police department legally authorized shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments and except as otherwise provided in this charter. [*New section, 1943*]

SECTION 35.3. The chief of police may detail from time to time members of the department for performance of duty in the bureau of inspectors who shall be known as assistant inspectors, and who may be removed from such detail by order of the chief of police. An appointment as inspector shall not be subject to competitive examination, but in case of vacancy in said rank of inspector, the appointment shall be made by the chief of police from among those assistant inspectors who have been detailed to, and who have actually served with the bureau of inspectors for at least two years prior to such appointment. Inspectors and assistant inspectors shall have the same rights as other members of the department to take competitive examinations from their respective civil service ranks. An inspector guilty of any offense or violation of the rules and regulations of the police department shall be subject to punishment as provided in section 155 of this charter; provided, however, that in addition to the punishments set forth in section 155, an inspector may be demoted to his civil service rank for any offense or violation set forth in said section and after trial and hearing before the police commission as set forth therein. The chief of police, in addition to the inspectors above provided for, shall detail any member of the department to serve as inspector of school traffic patrols who shall have the rank and pay of inspector, subject to the provisions of this section. [*New section, 1943; amended, 1948*]

SECTION 35.4. Subject to the provisions of section 20 of this charter governing the appointment and removal of non-civil service appointees, and without competitive examination, the chief of police shall have power to appoint a police surgeon; to designate a deputy chief of police, a department secretary, and a director, bureau of special services, from any rank in the department; to designate a director, bureau of criminal information, from among the members of the department having the rank of sergeant or higher; to designate a captain of inspectors, a captain of traffic, and a director, bureau of personnel, from among the members of the department holding rank of lieutenant or higher, and to designate a supervising captain of districts from among the members of the department holding the rank of captain. Provided, that the captain of inspectors, who held said position on the 14th day of April, 1937, and for one year continuously prior thereto, is hereby continued in the said position as if he had been appointed thereto after civil service examination and certification. The department secretary or other suitable member of the department shall be assigned by the chief of police to serve also as secretary to the police commission without extra compensation. The chief of police shall assign a property clerk from among the members of the department, such assignment shall be made at the rank and pay of the member so assigned.

When any member of the department, detailed to any of the positions above mentioned, shall be removed from said detail or position, he shall be returned to his civil service rank and position, unless removed from the department pursuant to the provisions of section 155 of the charter. [*New section, 1943*]

SECTION 35.5. The police force of the city and county shall not exceed one police officer for each five hundred inhabitants thereof. The annual compensations for the several ranks in the department shall be as follows: chief of police, $10,680; deputy chief of police, $8,940; captain of inspectors, $7,920; supervising captain of districts and department secretary, $7.200; captain of traffic, $6,540; director of bureau of personnel and director of bureau of criminal information, $6,180; captains and criminologist, $6,060; lieutenants and director of bureau of special services, $4,800; inspectors, $4,440; sergeants, $4,320; photographer, $4,140; police surgeon, $3,780; police officers, police patrol drivers and women protective officers, for first year of service, $3,420; for second year of service, $3,540; for third year of service, $3,660; for fourth year of service and thereafter, $3,780.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensations as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

Any member assigned to two-wheel motorcycle traffic duty shall receive $15 per month in addition to the compensation to which he would otherwise be entitled.

This section shall become effective on the 1st day of July, 1948, provided the same is ratified prior to said date by the Legislature of the State of California. If not ratified prior to said date, this section shall become effective on the 1st day of the month immediately following the date of ratification. [*New section, 1943; amended, 1946; 1947; 1948*]

SECTION 35.5½. (a) The word "member" or "members" as used in this section shall mean the members of the several ranks in the police department set forth in section 35.5 of this charter.

(b) The basic week of service for each member shall be not more than forty-four (44) hours and the annual compensation set forth in section 35.5 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least one (1) day off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the police commission public interest requires the services of any member to serve in excess of the basic week of service during any week, the said police commission may authorize the chief of police to permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this subsection. For service performed in excess of the basic week, members shall be compensated on the basis of straight time in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in section 35.5, or in lieu thereof equivalent time off duty with pay.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in section 151 of this charter, or the normal day off per week; provided, however, that when in the judgment of the police commission public necessity requires the services of any member to serve on his vacation, or part thereof, or normal day off, the said commission may authorize the chief of police to permit said member to serve during said vacation, or part thereof, or normal day off, and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of straight time in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensations provided therefor in section 35.5.

(f) The police commission is hereby authorized to require a member or members to work more than forty-four (44) hours per week in any week when public necessity requires such services, and the member or members so serving more than forty-four (44) hours shall be granted added compensation or time off with pay for said extra service performed.

(g) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part I, of the San Francisco Municipal Code, approving rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(h) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignments, prior to going on duty, the said commission may designate a period not to exceed fifteen (15) minutes in any one day for said reporting, and the said periods of fifteen (15) minutes need not be compensated for in money or in time off with pay.

(i) Notwithstanding the provisions of any of the foregoing subsections, the police commission is empowered to designate certain legal holidays as additional days off with pay for members of the police department and members required to perform police service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of said commission.

(j) This section shall become effective on the 1st day of July, 1948, provided the same is ratified prior to said date by the Legislature of the State of California. If not ratified prior to said date, this section shall become effective on the 1st day of the month immediately following the date of ratification. [*New section, 1944; amended, 1947, 1948*]

SECTION 35.6. The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place in which the business is conducted or maintained is not a proper or suitable place in which to conduct or maintain such business or calling. [*New section, 1943*]

The Chief of Police may revoke a permit only for good cause as set forth in the section. **Greif v. Dullea** (1944) 66 Cal. App (2d) 986, 153 Pac. (2d) 581.

The action of the Chief of Police was not to issue a new permit to operate taxicabs, necessitating a certificate of public necessity and convenience, but a revival where, following a request for a temporary cancellation of permits for a specified number of taxicabs and an order of the Board of Police Commissioners that the permits were "cancelled," the Chief of Police declared that the permit has been and was in full force, and the evidence sustained such conclusion of the Board of Permit Appeals. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

Resolution of Police Commission authorizing Chief of Police to revoke license for refusal to return stolen property, see notes under § 24.

SECTION 35.7. In the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority, the chief of police, in the lawful exercise of his functions, shall have all the powers that are now or that may be conferred on the sheriff by the laws of this state. [*New section, 1943*]

SECTION 35.8. The supervisors shall provide in the annual budget, an amount not to exceed in any one fiscal year the sum of $10,000 to be known as the contingent fund of the chief of police.

The chief of police may from time to time, disburse such sums for contingent expenses of the department as in his judgment shall be for the best interests of the city and county, and the police commission shall allow and order paid out of such contingent fund, upon orders signed by the chief of police, such amounts as may be required. [*New section, 1943*]

SECTION 35.9. At his discretion or upon the petition of any person, firm or corporation, the chief of police may appoint, and at his pleasure remove special police officers. Such officers shall be subject to all the rules and regulations of the department. [*New section, 1943*]

SECTION 35.10. The police commission may appoint patrol special officers and for cause may suspend or dismiss said patrol special police officers after a hearing on charges duly filed with the commission and after a fair and impartial trial. Each patrol special police officer shall be at the time of his appointment not less than twenty-one years of age nor more than forty years of age and must possess such physical qualifications as may be required by the commission. Age qualifications shall not apply to present patrol special police officers acting as such at the time of the effective date of this amendment nor to their reappointment. Patrol special police officers who are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by said commission or the legal heirs or representatives of said owners, may dispose of their interest in said beat or territory to a person of good moral character, approved by the police commission and eligible for appointment as a patrol special police officer. [*New section, 1943*]

A patrol special police officer appointed pursuant to the section is an employee of San Francisco within § 172. **San Francisco v. Industrial Acc. Com. (Odom) (1947) 12 C. Comp. Cas. 207; San Francisco v. Industrial Acc. Com. (Pate) (1947) 12 C. Comp. Cas. 112.**

SECTION 35.11. On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance. [*New section, 1943*]

SECTION 35.12. The chief of police shall have the power, by regulation, to provide for the care and restitution of property that may come into possession of any officer or employee thereof, and the sale at public auction of all such unclaimed property, as well as the disposition of such property as shall consist of weapons or articles used or that may be used in the commission of crime, or the sale or disposition of which is prohibited by law. [*New section, 1943*]

SECTION 35.13. This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. [*New section, 1943*]

> The provision of the 1943 amendment that the amendment "shall become effective when the joint resolution approving such amendment is filed with the Secretary of State and the Board of Supervisors has appropriated funds necessary in connection therewith, but not later than July 1, 1943," had the effect of deferring the effective date until the Board of Supervisors had appropriated the funds. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156, Pac. (2d) 479.

JUDICIAL DEPARTMENTS

Municipal Court

SECTION 53. The powers and duties of the municipal court of the city and county shall be as established by the constitution and general law, and said municipal court shall be as constituted and regulated by general law, except as otherwise provided in this charter. The municipal court shall consist of twelve judges, who shall be elected as provided by section 5 of this charter, and each of whom shall be paid a salary of six thousand dollars ($6,000) per year. The compensation of said judges shall be in full for all services, and any fees required to be collected by law by the municipal court or the clerk thereof, shall be paid into the treasury of the city and county. No judge of the municipal court shall practice law in or out of court during his continuance in office.

The judges of the municipal court shall annually choose one of their number to be presiding judge. The presiding judge shall have the general superintendence of the business of the court, shall classify and distribute the same, fix the vacations of the judges, and assign the judges to the several departments of the court; but any judge may proceed in any such department in the absence or the inability of the judge regularly assigned thereto. The presiding judge shall supervise and direct the work of the clerk of the municipal court, and shall be responsible for the proper keeping of records and making of reports by the clerk. [*See Sect. 11, Art. VI, of the Constitution.*]

"The merger of the justices' court into the present municipal court . . . became effective on July 1, 1930." **Colla v. Carmichael's U-Drive Auto's, Inc.** (1930) 111 Cal. App. (Supp.) 784, 294 Pac. 378.

Salaries of attaches of court, see notes under § 55.

Municipal Court Regulations and Reports

SECTION 54. The judges of the municipal court shall meet at least once in each month, and at such other times as the presiding judge may require, and shall prescribe rules and regulations not inconsistent with general laws as are necessary and proper for the advancement of justice and prevention of delay in the business of the court.

Not later than the tenth day of each month, the presiding judge, through the clerk of the municipal court, shall file with the board of supervisors a consolidated report of the business of the court and the judges thereof for the preceding month. Copies of such reports shall be filed with the city attorney, the district attorney, the chief of police and the clerk of the municipal court. In January of each year, the presiding judge, through the clerk, shall file a similar report covering the preceding calendar year. The board of supervisors may cause copies of such annual reports to be printed for free distribution to citizens who request them.

Clerk of the Municipal Court

SECTION 55. The clerk of the municipal court shall be appointed by the judges of the court, and shall hold office at their pleasure. The clerk shall appoint, subject to the civil service provisions of this charter, such clerks, stenographers, interpreters and other personnel as may be authorized by appropriation ordinances of the board of supervisors; provided, however, that the sheriff shall, on the order of the court, detail necessary bailiffs to the civil departments thereof, and shall execute the orders and processes issued by the court. The salaries of the clerk and the personnel of the clerk's office shall be fixed by the board of supervisors, as provided by this charter for other city and county employees. The clerk shall have charge, superintendence and control of said office and the personnel thereof, and be responsible for records and reports incidental to the business of the court. He shall have the powers and duties prescribed by general law not inconsistent with this charter.

The power to fix the salaries of attachés of the municipal court is in the Legislature by virtue of Const. art. vi, § 11, and where it has acted, as in Stats. 1947, ch. 1113, its action supersedes a salary ordinance on the subject. **Slavich v. Walsh** (1947) 82 Cal. App. (2d) ...... (82 A.C.A. 248), ... Pac. (2d) ......, rehearing denied.

The delegation to the Board of Supervisors of the power to fix salaries of some municipal court attachés, as in Municipal Court Act, § 6 (Deering's Gen. Law, Act 5238) from 1929 to 1947, is not irrevocable, and when the power is withdrawn, and the salaries are fixed by statute, as by Stats. 1947, ch. 1113, the statute is supreme. **Slavich v. Walsh** (1947) 82 Cal. App. (2d) ...... (82 A.C.A. 248), ... Pac. (2d) ......, rehearing denied.

Superior Court Appointments

SECTION 56. The judges of the superior court of the city and county may appoint a secretary-jury commissioner, who shall hold office at the pleasure of the court. He shall have the powers and duties prescribed by general law, not inconsistent with this charter. His salary and the salaries of his assistants and employees shall be fixed by the board of supervisors as provided by this charter for other city and county employees. Subject to the approval of the court, he shall appoint and, at his pleasure, may remove his assistants and employees. [*See Sect. 204c, Code of Civil Procedure.*]

The San Francisco Law Library

SECTION 57. The San Francisco Law Library, established under an act of the Legislature approved March 9, 1870, shall be under the management and control of the board of trustees, which shall consist of seven appointive members of the San Francisco bar, and the mayor, the presiding judge and the three judges of the appellate department of the superior court, ex officio. The board of trustees holding office at the time this charter shall go into effect shall continue as the board of trustees of said library. All vacancies on said board shall be filled by said board.

The board of trustees shall appoint and at its pleasure may remove a librarian, who shall be its executive officer, and such assistants as are necessary for the proper conduct and operation of the library. The salaries of the librarian and the assistants and employees shall be fixed by the board of supervisors as provided by this charter for other city and county employees.

The supervisors shall provide suitable and sufficient quarters for the law library, fit up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The library shall be so located as to be readily accessible to the judges and the officers of the court.

The county clerk and the clerk of the municipal court shall collect the fees provided for law libraries by general law and the fees so collected by such officers or by any officers under any other provisions of the law shall be paid to the treasurer of the law library monthly, and shall constitute a law library fund to be expended by the law library trustees in the purchase of books and periodicals, and in the establishment and maintenance of the law library.

The judiciary, city, county and state officials, members of the bar and all inhabitants of the City and County of San Francisco shall have free access, use and enjoyment of the law library, subject to rules and regulations of the board of trustees.

Probation Boards

SECTION 58. The adult probation committee and the juvenile probation board or committee shall continue to exercise their respective powers and duties as fixed by state laws, except as in this charter otherwise provided.

The superior court judges of the city and county presiding in the department or departments for the hearing and disposition of criminal cases and proceedings shall, by order entered in the minutes of the court in the criminal department or departments thereof, appoint the adult probation officer.

The judge of the superior court of the city and county who has been, or who hereafter may be, designated the judge of the juvenile court, shall, by order entered in the minutes of the court, appoint the probation officer of the juvenile court.

The adult probation officer shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the adult probation board or committee created by state law.

The probation officer of the juvenile court shall appoint such assistants, deputies and employees as may be allowed or provided by the board of supervisors, subject to confirmation by the juvenile probation board or committee created by state law.

The salaries of the adult probation officer, the probation officer of the juvenile court, their assistants, deputies and employees shall be fixed by the board of supervisors in the same manner as for other officials and employees of the city and county.

The adult probation officer, the probation officer of the juvenile court and their assistants and deputies shall have the powers conferred upon adult probation officers, probation officers of the juvenile court, their assistants and deputies, by the laws of the State of California; and they shall perform all of the duties prescribed by such laws, and such additional duties as may be prescribed by ordinances of the board of supervisors.

The civil service provisions of this charter shall apply to and govern the assistants, deputies and employees of the adult probation officer and the probation officer of the juvenile court. For purposes of this charter the adult probation officer shall be the appointing officer as to his assistants, deputies and employees, subject to confirmation as aforesaid; and the said probation officer of the juvenile court shall be the appointing officer as to his assistants, deputies, and employees, subject to confirmation as aforesaid.

Any person who has served as an assistant, deputy or employee of such adult probation officer or probation officer of the juvenile court, or in the probation department of the city and county for a continuous period of one year immediately prior to the time this charter shall go into effect, and who shall be actually serving as such assistant, deputy, or employee at that time, is hereby declared to be appointed within the civil service provisions of this charter to the office or position in which he may then be serving; and shall be entitled to all the benefits of this charter thereafter.

The pension and retirement provisions of this charter shall apply to and govern the adult probation officer, the probation officer of the juvenile court, their assistants, deputies and employees.

CHIEF ADMINISTRATIVE OFFICER
(Continued)

Administrative Departments Under Chief Administrative Officer

SECTION 61. From and after twelve o'clock noon on the 8th day of January, 1932, the functions, activities and affairs of the city and county that are hereby placed under the direction of the chief administrative officer by the provisions of this charter, and the powers and duties of officers and employees charged with specific jurisdiction thereof, shall, subject to the provisions of section 2 and section 20 of this charter, be allocated by the chief administrative officer, among the following departments:

Department of Finance and Records, which shall include the functions and personnel of the offices of tax collector, registrar of voters, recorder, county clerk and public administrator, and shall be administered by a director of finance and records who shall be appointed by the chief administrative officer and hold office at his pleasure. The public administrator shall appoint and at his pleasure may remove an attorney who shall be paid an annual salary of eight thousand dollars ($8,000). He may also appoint such assistant attorneys as may be provided by the budget and annual appropriation ordinance.

Purchasing Department, which shall include the functions and personnel of the bureau of supplies, the operation of central stores and warehouses, and the operation of central garages and shops, and shall be administered by the purchaser of supplies who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Real Estate Department, which shall include the functions and personnel of the office of the right-of-way agent as established in the bureau of engineering at the time this charter shall go into effect, and also the control, management and leasing of the exposition auditorium.

Department of Public Works, which shall include the functions and personnel of the department of public works, as established at the time this charter shall go into effect, with the exception of functions and personnel which are established by this charter under the management, direction and control of the public utilities commission, and which department shall also include the functions and personnel of the telephone exchange. This department shall be administered by the director of public works, who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The powers otherwise clearly vested in the Director of Public Works are not limited by § 106, providing for making by him of examinations, plans and estimates required by the Supervisors. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Department of Electricity, which shall include the functions and personnel of the department of electricity as established at the time this charter shall go into effect. The department shall be administered by a chief of department who shall, from and after twelve o'clock noon on the 8th day of January, 1932, have the powers and duties of the joint board of fire and police commissioners composing the joint commission in charge of the department of electricity, at which time the joint commission shall be abolished. The premises of any person, firm or corporation may, for the purpose of police or fire protection, be connected with the police or fire signal or telephone system of the city and county upon paying a fair compensation for such connection and the use of the same, provided that any such connection shall require the approval of the chief of the department of electricity and shall not in any way overload or interfere with the proper and efficient operation of the circuit to which it is connected. The conditions upon which such connection shall be made and the compensation to be paid therefor shall be fixed by the board of supervisors by ordinance upon the recommendation of the chief of the department.

Street Traffic Advisory Board, which is hereby created, and which shall consist of the chief administrative officer as chairman, the chief of police, the director of public works, the chairman of the city planning commission, the superintendent of the department of electricity, the municipal judge presiding over the traffic court, and a member of the board of supervisors to be appointed by the president thereof. The board shall meet at least once a month. It shall have the power and duty of considering ways and means of effectively coordinating the activities of city and county departments having responsibilities relating to street traffic, to the end that street traffic congestion and hazards throughout the city and county shall be relieved so far as possible. The board shall hear and consider complaints of citizens with respect to street traffic matters. The recommendations of the board shall be made in writing and shall be available to the public.

Department of Public Health, which shall include the functions, institutions and personnel of the department of public health as existing at the time this charter shall go into effect, and which shall include also the maintenance and operation of the institution known as the juvenile detention home, and the personnel engaged in such maintenance and operation. Said department shall be administered by a director of health, who shall be a regularly licensed physician or surgeon in the State of California, with not less than ten years' practice in his profession immediately preceding his appointment thereto. He shall be appointed by the chief administrative officer and shall hold office at his pleasure, provided that the incumbent health officer at the time this charter shall go into effect shall be deemed appointed to such office. The director of public health shall have and continue the powers and duties of the health officer and the board of health, from and after twelve o'clock noon on the 8th day of January, 1932, at which time the terms of members of said board shall terminate, and such board as therefore existing shall be abolished. [*See Sections 660 and 662 of the Welfare and Institutions Code*]

Health Advisory Board. There is hereby created a health advisory board of seven members, three of whom shall be physicians and one a dentist, all regularly certificated. Members of the board shall serve without compensation. They shall be appointed by the chief administrative officer for terms of four years; provided, however, that those first appointed shall classify themselves by lot so that the terms of one physician and one lay member shall expire in 1933, 1934 and 1935, respectively, and the term of one member in 1936.

Such board shall consider and report on problems and matters under the jurisdiction of the department of public health and shall consult, advise with and make recommendations to the director of health relative to the functions and affairs of the department. The recommendations of such board shall be made in writing to the director of health and to the chief administrative officer.

County Welfare Department, which shall include the functions and personnel of the county welfare bureau as established at the time this charter shall go into effect. [*Refer to Section 61.1.*]

Coroner's Office, which shall include the functions and personnel of the existing office of coroner as established at the time this charter shall go into effect.

Horticultural Inspection Department, which shall include the functions and personnel of the office of horticultural commissioner as established at the time this charter shall go into effect.

Department of Weights and Measures, which shall include the functions and personnel of the office of sealer of weights and measures as established at the time this charter shall go into effect.

published. Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the city and county; provided, however, that the rate of interest to be paid shall not exceed the sum of six (6) per centum per annum, and full authority is hereby given to said board of supervisors to fix, by resolution, the rate of interest on said notes or other evidences of indebtedness and the times and places where the principal sum of said notes or other evidences of indebtedness shall be paid. The principal amount of said notes or other evidences of indebtedness together with the interest thereon, issued and delivered under authority of this section shall be payable exclusively out of the taxes levied and collected by said city and county for the fiscal year during which the same are issued, and shall constitute a first lien and charge against the taxes collected during the half of the fiscal year in which said money shall be borrowed and shall be repaid from the first moneys received from said taxes; and the amount of taxes so levied and collected shall be applied to the payment of said notes or other evidences of indebtedness before any part thereof is used for any other purpose; provided, however, that taxes levied for the payment of principal of, or interest on, any bonded indebtedness of said city and county now outstanding or hereafter created shall be applied to the purpose for which such taxes were levied, unless the money borrowed by such notes or other evidences of indebtedness issued against such tax levies is in fact applied to the payment of the principal and interest of such bonded indebtedness. If at the time said notes or other evidences of indebtedness, or any of them, become due and payable the funds in the city treasury available for the payment thereof shall be insufficient for the payment in full of all of said notes or other evidences of indebtedness then outstanding such funds shall be applied pro rata to the payment of the principal and interest of all of the notes or other evidences of indebtedness then issued and outstanding without preference or priority of any one note over any other by reason of prior issuance, or otherwise. Any of said notes or other evidences of indebtedness not paid prior to June 30 of the fiscal year during which the same are issued shall, nevertheless, be paid out of moneys received from the taxes of the said fiscal year, irrespective of the date of the receipt thereof, it being the intent and purpose of this section to provide for the payment of all notes or other evidences of indebtedness issued under authority of this section out of the taxes levied for the fiscal year during which said notes or other evidences of indebtedness are issued irrespective of the actual date of the collection of said taxes.

The board of supervisors shall have full power and authority to provide for the form of all notes or other evidences of indebtedness issued by authority of this section, as well as to fix the time and place for the payment of both the principal amount of said notes or other evidences of indebtedness and the interest to become due thereon; provided that all notes or other evidences of indebtedness issued for money borrowed during the first half of any fiscal year shall be payable not later than December 31 of said year; and all notes or other evidences of indebtedness issued for money borrowed during the second half of any fiscal year shall be payable not later than May 15 of such year, it being the intent and purpose of this section that the borrowing of money under authority hereof shall be solely for the purpose of anticipating receipt of income. The mayor, in preparing the consolidated budget estimate as provided by this charter, shall include therein a separate amount sufficient to meet the interest to be paid on any moneys borrowed under authority of this section. [*Amended, 1933; 1937*]

Receipt, Custody and Deposit of Funds

SECTION 82. Disbursement of all public or other funds in the custody of the treasurer, except reimbursement transfers between departments as provided in section 77, shall be made only on warrants drawn by the controller. All moneys and checks received by any officer or employee of the city and county for, or in connection with the business of, the city and county, shall be paid or delivered into the treasury not later than the next business day after its receipt, and shall be receipted for by the treasurer. Daily statements of such receipts and deposits shall be prepared and transmitted to the controller and the treasurer. All pension funds and securities shall be deposited with the treasurer.

The treasurer, with the written approval of the mayor, the controller and the president of the board of supervisors, may deposit funds in his possession in any licensed national bank or banks within this state, or in any bank or banks authorized to do a banking business and organized under the laws of this state. A depositary bank shall furnish as security for such deposits bonds of the United States or of this state, or of any county, municipality, or school district within this state approved by the treasurer and the city attorney. The market value of bonds furnished as security shall be at least ten per cent in excess of the amount of the deposits secured thereby. The market value of the securities shall be maintained in such proportion at all times and the treasurer is hereby charged with the responsibility of enforcing this requirement. The amount of the deposit shall not exceed the face value of such bonds.

All deposits shall be conditional upon payment of a reasonable rate of interest, not less than two per cent per annum on daily balances. The rate of interest shall be fixed annually in the month of January of each year for such calendar year by the treasurer, the controller and the mayor, and such rate shall be reported in writing forthwith to the board of supervisors. Interest on all moneys so deposited shall be payable quarterly to the treasurer.

No deposit in any bank shall at any time exceed fifty per cent of the paid up capital stock of such bank, and while there are other depositary banks available, no deposit in any bank shall exceed ten per cent of the funds under the control of the treasurer available for deposit. Deposits shall be subject to withdrawal on joint demand of the treasurer and the controller. In the event of failure of any depositary bank to repay on demand any moneys so held on deposit, the treasurer, with the written approval of the mayor, may, after ten days' written notice to such bank, proceed to sell at public or private sale, any or all of the bonds so held by him as security. Ten days' notice of such sale shall be given by publication. At any time before the sale of the bonds the bank may repay the money deposited, with interest thereon and any expense that may have been incurred by the treasurer relating to or incident to such sale, and the bonds shall not be sold.

The treasurer shall not be responsible for any loss of public moneys resulting from a deposit thereof made in accordance with the provisions of this section. The treasurer shall be responsible for the safe-keeping of all securities deposited by banks. The transfer of money for deposits shall be at the expense of the depositary.

Funds received by donation, bequest or legacy for a specific purpose and held in trust for the benefit of the city and county may, with the approval of the controller, be invested by the officer, board or commission charged with control and administration of such trust or funds in securities legal for savings banks.

All interest on moneys so deposited shall accrue to the benefit of the city and county, except that interest derived from the deposit of any bond, utility, pension, trust or other fund created for a specific purpose shall accrue to such fund. Public money, other than that of the city and county, coming into the hands of the treasurer shall be kept as provided by law. [*See Sect. 16½, Art. XI, of the Constitution.*]

Custody of Moneys and Securities

SECTION 83. The supervisors shall by ordinance provide for the safe custody of all money and property in the possession or under the control of the treasurer. Pending the adoption of such ordinance, moneys and securities in possession of the treasurer shall be deposited in a joint custody safe with two combination locks, both of which must be unlocked to open the safe. The combination of one lock shall be known only to the treasurer and one deputy in his office selected by him, and the combination of the other shall be known only to the controller and such assistant in his office as shall be selected by him. The joint custody safe shall be opened only in the presence of the treasurer and either the controller or the assistant in his office having knowledge of the combination, or in the presence of the controller and either the treasurer or the assistant in his office having knowledge of the combination, and either the controller or the said assistant shall attend, at the request of the treasurer, to open the joint custody safe.

A complete record of moneys and securities on deposit in the joint custody safe shall be kept in a joint custody account and the record of any withdrawals shall be verified by the initials of the controller or his said assistant and the treasurer or his said assistant. Money required for current daily payments to be made from the treasury may be withdrawn from the joint custody safe and deposited in another safe, and the balance thereof shall be verified daily at the close of business hours by the treasurer and the controller.

Clearing House Representative

SECTION 84. The board of supervisors, by ordinance, upon the recommendation of the mayor, the treasurer and the controller, may designate any bank qualified to be a depositary under this charter to be the clearing house representative of the city and county, and the city and county may pay a reasonable fee for the service thereof. The necessary procedure shall be provided by ordinance.

Expenditures and Payment of Claims

SECTION 85. No money shall be drawn from the treasury of the city and county, nor shall any obligation for the expenditure of any money be incurred except in pursuance of appropriations or transfers made as in this charter provided.

All salaries and wages shall be payable semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this charter.

All warrants shall be drawn by the controller, in payment of claims, prepared and signed by the responsible official, for services, supplies and other obligations against the city and county, supported by proper invoices, bills and other necessary data.

The controller shall audit such claims. If he finds the same to be correct and proper in all particulars, and clearly within the purposes for which the appropriation item to which it is charged was made, and that there is an adequate balance in such appropriation item to meet the payment, he shall draw and approve the warrant therefor.

If all or any portion of the claim is not correct, or if all proceedings required incidental to such payment have not been followed, the controller may approve such part of such claim as he shall find correct and draw the warrant therefor, or he may return the claim to the department concerned with his disapproval.

Prior to his drawing any warrant therefor, the controller may, in addition to any other inspection required by any other official, make such investigation and inspection as he deems necessary as to the quality, quantity and condition of services, material, supplies or equipment received by any officer or department for which payment is to be made by such warrant. If, in his opinion, any claim is not legal, he shall withhold approval of the same and immediately return such claim, together with a statement of his action thereon and reason therefor, to the responsible official, or transmit the same to the mayor for instructions. No warrant shall be drawn in payment of a claim against a fund in which there is an insufficient unencumbered balance for the payment thereof. Such claims, if legal, shall be registered by the controller in the order of receipt by him, and shall be paid in such order as moneys to cover the same become available in the proper fund.

Limitation on Incurrence of Liabilities

Section 86. No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the board of supervisors unless the controller first certify to such board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditure will be available in the treasury in sufficient amount to meet the same as it becomes due.

No obligation involving the expenditure of money shall be incurred or authorized by any officer, employee, board or commission of the city and county unless the controller first certify that there is a valid appropriation from which the expenditure may be made, and that sufficient unencumbered funds are available in the treasury to the credit of such appropriation to pay the amount of such expenditure when it becomes due and payable.

Every officer who shall approve, allow or pay any demand on the treasury not authorized by law, ordinance or this charter, shall be liable to the city and county individually and on his official bond for the amount of the demand so illegally approved, allowed or paid.

Each such certification shall be immediately recorded by the controller. Each sum so recorded shall be an encumbrance for the purpose certified until such obligation is fulfilled, cancelled or discharged, or until the ordinance or resolution is repealed by the board of supervisors.

All obligations incurred, all ordinances passed, and resolutions and orders adopted, contrary to the provisions of this section, shall be void and any claim or demand against the city and county based thereon shall be invalid.

To promise the payment of money upon performance of a contract out of an unincumbered and unexpended fund set aside for such expenditure is not to contract a liability in violation of the Charter. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Unapproved Agreement for Repairs.—An agreement between the City and plaintiff contractor by which the contractor was to repair landslide damages to land over which it was constructing a pipe line for the City was void and unenforceable where it was not approved by the City Controller. **Williams Bros. & Haas v. San Francisco** (1942) 53 Cal. App. (2d) 415, 128 Pac. (2d) 56, citing **Zottman v. San Francisco** (1862) 20 Cal. 96, 81 Am. Dec. 96; **Gamewell F.A.T. Co. v. Los Angeles** (1919) 45 Cal. App. 149, 187 Pac. 163.

A recovery in quantum meruit cannot be had on a claim based on an agreement between the City and plaintiff contractor for the repair of damages to land, where the agreement was void because not approved by the City Controller. **Williams Bros. & Haas v. San Francisco** (1942) 53 Cal. App. (2d) 415, 128 Pac. (2d) 415.

Limitation on Claims for Damages

SECTION 87. All claims for damages against the city and county must be presented to the controller within sixty days after the occurrence from which it is claimed the damages have arisen. Such claims must be verified by the oath of the claimant and must contain the name and address of the claimant, the date and place of the occurrence or injury for which damages are claimed, the nature and amount of said injuries or damages and the items making up said amount; otherwise there shall be no recovery on any such claim or by reason of the said occurrence for which damages are claimed. [*Amended, 1935*]

The language of this section is plain, requires no interpretation or construction and applies to all claims for damages against the City. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109.

A statement of claim or demand as required by this section is a condition precedent to an action for damages. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109.

The Charter may not fix a shorter period for filing claims based on liability for defective streets, etc., under the Public Liability Act. (Stats. 1923, p. 675, Deering's Gen. Laws, Act 5619), as that is a matter of statewide concern. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

The Charter section requiring the filing of claims with the Controller within 60 days after the occurrence giving rise to liability is ineffective as against the Public Liability Act. (Stats. 1923, p. 675, Stats. 1931, p. 2475, Deering's Gen. Laws, Act 5619), even though the Charter provision in its existing form was approved at a later date, since the filing of claims in such case is a matter of statewide concern. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112, Pac. (2d) 759.

The time and place for filing of claims predicated on the statutory liability under the Public Liability Act. (Stats. 1923, p. 675, Stats. 1931, 2475, Deering's Gen. Law, Act 5619) are matters of statewide concern, and the filing of a claim with the Controller, as provided in this section, instead of the secretary or clerk of the legislative board, as provided in the statute is ineffective. **Wilkes v. San Francisco** (1941) 44 Cal. App. (2d) 393, 112 Pac. (2d) 759.

Charter provisions relating to proof and presentment of claims do not apply to persons making levies as authorized by a state statute, such as a levy made under Code Civ. Proc., § 710. **Department of Water & Power v. Inyo Chemical Co.** (1940) 16 Cal. (2d) 744, 108 Pac. (2d) 410.

Breach of Dam Elevation Contract.—An action for damages for breach of a contract for elevation by plaintiff of a municipal dam was properly dismissed where the claim for damages was not presented to the Comptroller within sixty days as required by this section. **San Francisco v. Transbay Construction Co.** (1943) 134 Fed. (2d) 468.

Claim for Repair of Land Slide Damage.—A contractor cannot recover damages for breach of an agreement with the City to repair land slide damage to land over which the contractor was constructing a pipe line for the City where such an agreement was unapproved by the City Controller and no claim for such damages was filed as required by this section. **Williams Bros. & Haas v. San Francisco** (1942) 53 Cal. App. (2d) 415, 128 Pac. (2d) 56.

Claim for Personal Injuries.—An action for damages for personal injuries sustained by a passenger on a street car owned and operated by the City is barred where the passenger fails to file with the Controller a verified claim for such damages within sixty days after receiving the injuries. **Cathey v. San Francisco** (1940) 37 Cal. App. (2d) 575, 99 Pac. (2d) 1109.

Plaintiff's action for personal injuries suffered when struck by a City bus was not barred by his failure to file his claim against the City within sixty days after the accident as required by this section, where the injury which was the basis of his cause of action rendered him mentally incapable of filing the claim within the required time and he filed it as soon as he regained the mental ability to do so. **Schulstad v. San Francisco** (1946) 74 Cal. App. (2d) 105, 168 Pac. (2d) 68, (in which the court refused to follow **Johnson v. Glendale** (1936) 12 Cal. App. (2d) 389, 55 Pac. (2d) 580 and **Wicklund v. Plymouth E. School Dist.** (1940) 37 Cal. App. (2d) 252, 99 Pac. (2d) 314.

A complaint which fails to plead a demand made in accordance with the requirements of the Charter does not state a cause of action. **Crim v. San Francisco** (1907) 152 Cal. 279, 281, 92 Pac. 640. See also **Kline v. San Francisco Unified School Dist.** (1940) 40 Cal. App. (2d) 174, 104 Pac. (2d) 661.

period of three years preceding that event. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698.

A school principal who is dismissed on consolidation of the school with another is not in position to complain that the consolidation was made for the purpose of defeating her permanency of principal-teacher where at the time of the consolidation she has not acquired such permanency. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698.

Vice-Principals.—Under Pol. Code, § 1793, prior to its repeal in 1929, one elected without time limitation as vice-principal acquired a permanent tenure precluding the Board of Education from dismissing her as such without cause and retaining her as a teacher merely. This is consonant with this section of the Charter extending permanent tenure to vice-principals. **Klein v. Board of Education** (1934) 1 Cal. (2d) 706, 37 Pac. (2d) 74.

A class room teacher in two schools in the same district, who for more than three years prior to his dismissal served in that capacity as instructor in day classes in one school and night classes in the other, acquired a permanent tenure both under the tenure provisions of the then existing State School Code and of the city Charter, and, where dismissed without cause and without charges or hearing, was entitled to a writ of mandate compelling the Board of Education to restore him to his position as teacher. **Cullen v. Board of Education** (1932) 126 Cal. App. 510, 15 Pac. (2d) 227.

The school board is not estopped to deny that a school teacher was a principal during the three years prior to her dismissal, and entitled to tenure as such, merely because she may have performed the duties and received the salary of principal during that period, where her employment for the first of the three years was in a capacity other than that of principal. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698, distinguishing **Briney v. Santa Ana High School Dist.** (1933) 131 Cal. App. 357, 21 Pac. (2d) 610.

In mandamus to require reinstatement of petitioner as vice president and dean of women in a junior college, a contention of defendants that petitioner had acquired no tenure under this section was said by the court to be "not without merit" but it was not necessary to pass upon the point as the case was disposed of on another ground. **Leonard v. Board of Education** (1940) 36 Cal. App. (2d) 595, 97 Pac. (2d) 1032, citing **Unruh v. Piedmont High School Dist.** (1935) 4 Cal. App. (2d) 390, 41 Pac. (2d) 212.

See 21 California Law Review, p. 400.

Present Retired Members and Present Beneficiaries, Police Department

SECTION 167. Any member of the police department who shall have been retired and shall be receiving a pension on the 8th day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension, subject to the provisions of section 166 governing the payment of pensions. Such pension shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children, or parents.

Sunder v. Collins, see § 163.

Future Members of Police Department

SECTION 168. Persons who become members of the police department after the 8th day of January, 1932, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 158 to 164, both inclusive, of this charter: No such member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years, and completed twenty-five years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service, the benefits of retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

Defining Retirement Provisions—Police Department

SECTION 168.1. Members of the police department, as defined in this section, who are members of the retirement system under sections 165, 166 or 168 of the charter on the effective date hereof, hereby designated as the first day of July, 1945, and persons who become members of said department after said effective date, shall be members of the retirement system on and after said date, subject to the following provisions of this section 168.1, in addition to the provisions contained in sections 158 to 161, both inclusive, of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under section 166 of the charter on said effective date, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof, of being members of the system under section 166 instead of section 168.1, the election under said option to be effective on said effective date. In like manner, members of the said department who are members of the retirement system under sections 165 or 168 of the charter shall have the option, to be exercised in writing on a form furnished by the retirement system, and to be filed at the office of said system not later than ninety days after the effective date hereof, of being members of the system under sections 165 or 168, respectively, instead of section 168.1, the election to be effective on said effective date, provided, that members who are absent by reason of service in the Armed Forces of the United States or by reason of any other service included in section 161 of the charter, on the effective date of the amendment shall have the same option of electing to be members under sections 165, 166 or 168, as the case may be, instead of section 168.1, until ninety days after their return to service in the police department. On and after said date, the persons who affirmatively exercise said option, shall continue to be members of the system under sections 166, 165 or 168, respectively, and shall not be subject to any of the provisions of section 168.1.

(A) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

''Retirement allowance,'' ''death allowance'' or ''allowance,'' shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, and continuing for life unless a different term of payment is definitely provided by the context.

''Compensation,'' as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department.

''Compensation earnable'' shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department he was in the rank or position first held by him in such department.

''Benefit'' shall include ''allowance,'' ''retirement allowance,'' ''death allowance'' and ''death benefit.''

''Final compensation'' shall mean the average monthly compensation earnable by a member during the three years immediately preceding his retirement, or death before retirement.

For the purpose of the retirement system and of this section, the terms ''member of the police department,'' ''member of the department'' or ''member,'' shall mean any officer or employee of the police department whose employment therein began prior to January 1, 1900, or whose employment therein began or shall begin after that date, and was or shall be subject to the charter provisions governing entrance requirements for members of the uniformed force of said department, and said terms further shall mean, for the effective date of their employment in said department, persons employed on the effective date hereof, regardless of age, or employed after said date at an age not greater than thirty-five years in the police department to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron. Any police service performed by such a member of the police department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

''Retirement System'' or ''System'' shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

''Retirement Board'' shall mean ''Retirement Board'' as created in section 159 of the charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural, and the plural the singular.

"Interest" shall mean interest at the rate adopted by the Retirement Board.

(B) Any member of the police department who completes at least thirty years of service in the aggregate, regardless of age, or at least twenty-five years of service in the aggregate, and attains the age of 55 years, said service to be computed under subsection (H) hereof, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of seventy years during the twelve months ending June 30, 1946; the age of sixty-nine years during the twelve months ending June 30, 1947; the age of sixty-eight years during the twelve months ending June 30, 1948; the age of sixty-seven years during the twelve months ending June 30, 1949; the age of sixty-six years during the twelve months ending June 30, 1950, and thereafter, following the attainment of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in subsection (A) hereof, plus an allowance at the rate of 1⅔ per cent of said final compensation, for each year of service rendered prior to attaining age 60 and after qualifying as to age and service for retirement. Any member may retire, regardless of age, after rendering twenty-five years of service in the aggregate, computed under subsection (H), but in such event, his retirement allowance shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled at the date upon which he would qualify for retirement under the first two sentences of this paragraph, deferred to that date. Before the first payment of a retirement allowance is made, a member retired under this subsection or subsection (C), may elect to receive the actuarial equivalent of his allowance, partly in allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits.

(C) Any member of the police department, who becomes incapacitated for performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired, and shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in subsection (A) hereof, provided that if at that time, he is qualified as to age and service for retirement under subsection (B), he shall receive an allowance equal to the retirement allowance which he would receive if retired under subsection (B) but not less than fifty per cent of said final compensation. Any member of the police department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentence, and who shall have completed at least ten years of service in the aggregate, computed as provided in subsection (H) hereof, shall be retired upon an allowance of one and one-half per cent of the final compensation of said member, as defined in subsection (A) hereof for each year of service, provided that said allowance shall not be less than twenty-five per cent of said final compensation. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

(D) If a member of the police department shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a death allowance shall be paid, beginning on the date next following the date of death, to his surviving wife, equal to fifty per cent of the final compensation of said member as defined in subsection (A) hereof, throughout her life or until her remarriage, provided that if the member, at the time of death, was qualified as to age and service for retirement under subsection (B), the death allowance payable under this subsection (D), shall be equal to the retirement allowance which the member would have received if he had been retired under subsection (B) on the day of death but not less than fifty per cent of said final compensation, and if he be retired prior to death the death allowance payable shall be equal to the retirement allowance of the member. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years then said allowance shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive said monthly allowance during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness, which results in death.

(E) That portion of any allowance payable because of the death or retirement of any member of said department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits, other than medical benefits, payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement.

(F) If a member of the police department shall die, before retirement, from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under subsection (D) preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, the sum of five hundred dollars shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members.

(G) Should any member of the department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under subsection (H), to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, a portion of his contributions with credited interest equal to the contributions which would have accumulated to his credit if he had been employed in said other office or department at the rate of compensation received by him in the police department, shall remain credited to his account, and he shall receive credit for service to the extent of said accumulated contributions, and the balance of his contributions with credited interest shall be refunded to him forthwith.

(H) The following time shall be included in the computation of the service to be credited to a member of the department for the purpose of determining whether such member qualifies for retirement:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department;

(2) Time during which said member served and received compensation as a jail matron in the office of the sheriff;

(3) Solely for the purpose of determining qualification for retirement under subsection (C) for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member served and received compensation in any other status requisite for membership in the retirement system;

(4) Time during which said member, while absent from a status included in paragraphs (1), (2) or (3) next preceding,

by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 161 of the charter, during any war in which the United States was or shall be engaged or during other national emergency.

(I) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The rate of contribution of each member under this section shall be based on his age taken to the next lower complete quarter year, at the date he became a member under section 165 or 168, as a member of the police department, as defined in this section, in the case of persons who are members under these sections, or at the effective date of this amendment, in the case of persons who are members under section 166, and his age taken to the next lower completed year, when he entered the police department, or on his age at the date he becomes a member under this section, in the case of persons who become members on or after the effective date of this amendment. The age of entrance into the police department shall be determined by deducting the member's service as a member of the fire and police departments and as a jail matron in the office of the sheriff, prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding. The normal rate of contribution of each such member, to be effective from the effective date of membership under this section, shall be such as, on the average for such member, will provide, assuming service without interruption, under subsection (B) of this section, one-third of that portion of the service retirement allowance to which he would be entitled, upon first qualifying as to age and service, for retirement under that subsection, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date.

(2) There shall be deducted from each salary payment made to a member under this section, a sum determined by applying the member's rate of contribution to such salary payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual

account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in subsections (F) and (G) of this section.

(3) Contributions based on time included in paragraphs (1), (2) and (4) of subsection (H), and deducted prior to the effective date hereof, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(4) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(5) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this subsection (I), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1), subsection (I), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members

under this section, said percentage to be the ratio of the value at the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, or salaries thereafter payable to said members then in the police department to the value at said effective or said later date, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contribution, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members. and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(6) To promote the stability of the retirement system through a joint participation in the results of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. but the accounts of said system shall be kept in such manner as to permit the segregation of assets equal to the total contributions with interest credited thereon, held by said system to provide the benefits under this section, and to permit the determination that, except for said joint participation, all payments provided under this section shall be made from the contributions provided for herein. Nothing in this section shall affect the obligations of the city and county to pay to the retirement systems any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date. in the accounts of said system by debits against the city and county.

(J) Upon the completion of the years of service set forth in subsection (B) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said subsection (B), and nothing shall deprive said member of said right.

(K) No person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Should any such retired person, except persons retired because of disability incurred in the performance of duty engage in a gainful occupation prior to attaining the age of sixty-two, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed his compensation at the time of his retirement.

(L) Any section or part of any section in this charter, insofar as it should conflict with this section 168.1, or with any part thereof, shall be superseded by the contents of said section 168.1. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

This amendment shall take effect on the first day of July, 1945. [*New section, 1945*]

SECTION 168.2. No section for this number.

Pension Provisions—Dependents of Members of Fire and Police Departments Killed in Line of Duty

SECTION 168.3. If a member of the fire or police departments, as defined in the charter for the purposes of the retirement system, or a member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fireboats, marine engineer of fireboats, or marine fireman of fireboats, all of whom are hereinafter designated as members, shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a monthly allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death, and if he had retired prior to death, the allowance payable shall be equal to the retirement allowance of the member. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

Benefits provided under this section shall be in lieu of all benefits payable under other sections of the charter upon death of such member resulting from an injury received in, or illness caused by the performance of duty, except the five hundred dollar benefit payable upon death after retirement.

Contributions to provide the allowance under this section shall be made to the San Francisco City and County Employees' Retirement System by the city and county. The amount of the contribution shall be determined and payment to the system shall be made in the same manner as contributions are determined and paid which are required for other benefits provided under the retirement system for the respective groups of members who are included under this section.

Notwithstanding any other provisions of this charter, any member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fire boats, marine engineer of fire boats, or marine firemen of fire boats, who becomes incapacitated for performance of his duty by reason of any bodily injury received in or illness caused by the performance of his duty, shall receive the same benefits as members of the fire department who are members of the retirement system under section 171 of the charter. [*New section, 1947*]

169 governing the payment of pensions granted because of disability incurred in the performance of duty, including the payment of such pension to widows, children and parents of deceased members who had been retired because of such disability. Such pensions shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children, or parents.

The supervisors shall appropriate to the retirement system not to exceed the sum of five thousand dollars ($5,000) a year for the relief of aged, indigent and infirm exempt firemen who served in the Volunteer Fire Department between the years 1850 and 1866.

The pension rights of one who retired as a lieutenant in the fire department after the present Charter went into effect are governed by the provisions of such Charter even though the old Charter was in effect at the time he was employed as captain in the department. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

A pension right of a member of the fire department employed while the old Charter was in effect, which had not accrued, did not so enter into his contract of employment as to become a vested right of which he could not be deprived by subsequent enactment of a different provision in the new Charter. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

Jordan v. Retirement Board, see § 169.

Future Members of Fire Department

SECTION 171. Persons who become members of the fire department after the 8th day of January, 1932, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 158 to 164, both inclusive, of this charter: No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of fifty-five years and completed twenty years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below fifty-five, in accordance with the tables recommended by the actuary and approved by said retirement board.

Compensation Insurance Payments

SECTION 172. The benefit provisions of the workmen's compensation insurance and safety law of the State of California, as they affect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be re-insured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 35 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special police officer shall receive the benefits of such compensation law from any other source. [*Amended, 1937*]

A patrol special police officer appointed pursuant to § 35.10 is an employee of San Francisco within § 172, and the evidence supported a finding that his fatal injury arose out of and in the course of employment by the City where it appeared that he was apparently engaged in attempting to prevent the commission of a crime or to apprehend a criminal when he was killed. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207.

The evidence supported a finding that a special patrol officer was fatally injured in the course of his employment by the City where it appeared that he was fatally injured while en route from the scene of an emergency policing assignment to his routine duties. **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

The provision that ordinances necessary to enable the Mayor to carry out his emergency powers shall not be subject to referendum, does not require the passage of any ordinance or resolution to enable him to exercise his emergency powers. **Mullins v. Henderson (1946)** 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Initiative ordinance prohibiting one-man street cars, held valid. **San Francisco v. Market Street R. Co.** (1938) 98 Fed. (2d) 628, rehearing denied.

Referendum, see notes under § 16.

Petitions

SECTION 180. The filing, verification and certification of initiative, referendum and recall petitions shall be in accordance with general law, and rules and regulations of the registrar of voters relative to details not covered by general law, except as otherwise provided by this charter. Any signer to a petition may withdraw his name from the same by filing with the registrar of voters a verified revocation of his signature before the filing of the petition. No signature can be revoked after the petition has been filed. Unless and until it be proven otherwise by official investigation by the registrar, it shall be presumed that the petition filed conforms to all legal requirements and contains the signatures of the requisite number of registered voters, and after an election based thereon, the sufficiency of such petition shall not be questioned.

If any signature be questioned, the registrar shall mail notice to such purported signer, stating that his or her name is attached to such petition and citing him or her to appear before said registrar forthwith, naming the time and place. Said citation shall enclose a blank affidavit, which may be used to deny that the affiant signed such petition. If such person does not desire to attend in person, he may swear to such affidavit of denial before any officer authorized to take oaths, and mail the same to the registrar. If he does not so attend and deny such signature in person or by making and mailing such affidavit of denial before the time when the registrar must, under general law, make final determination, the signature to such petition must be treated as genuine. The registrar shall keep a list of the names of all purported signers who appear before him and deny their signature under oath, and also file and keep such affidavits for at least one year.

Special Election Fund

SECTION 181. The board of supervisors, in the first annual budget to be hereafter adopted by said board, shall appropriate not less than fifty thousand dollars to be known as the special election fund, to be used exclusively for defraying the cost of verifying petitions and other expenses of all special elections initiated by petition of the electorate, including recall elections. In the event of the expenditure of any of said fund, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said special election fund.

Time of Election

SECTION 182. If the petition accompanying a proposed initiative measure, declaration of policy, or recall be signed by registered voters equal in number to ten per cent of the entire vote cast for mayor at the last preceding general municipal election and contains a request that said measure, policy or recall be submitted forthwith to a vote of the electorate at a special election, then the registrar shall forthwith call a special election, which shall be held at a date not less than thirty nor more than forty days from the date of calling the same, at which said measure or policy, without alteration, or said recall shall be submitted to a vote of the electorate, unless within sixty days of a general or primary election, in which event it shall be submitted at such general or primary election.

If the petition accompanying a proposed initiative measure or declaration of policy be signed by registered voters equal in number to five per cent but less than ten per cent of the said entire vote, then such measure or measures, without alteration, shall be submitted by the registrar to a vote of the electorate at the next general state or municipal election that shall occur at any time after thirty days from the date of the certificate of sufficiency attached to the petition accompanying such measure unless the board of supervisors, by ordinance, direct that the measure or policy be voted on at a special election prior thereto.

Measures and Arguments to Be Mailed to Voters

SECTION 183. Whenever any measure is required by this charter to be submitted to the voters of the city and county at any election, the registrar shall cause the measure or policy to be printed on sheets measuring six by nine inches, and shall mail the same with a sample ballot to each voter, at least five days prior to the election. This printed copy may be attached to any other matter required to be printed and mailed.

With or upon the sample ballot mailed to each voter prior to a recall election, there shall be transmitted the reasons for demanding the recall of the officer as set forth in the recall petition, printed in not more than three hundred words, and with or upon the same ballot the printed statement of the officer in not more than three hundred words justifying his course in office.

If the proposition be submitted to the registered voters upon an initiative, referendum or recall petition, the persons filing said petition shall have the right to present to the registrar at any time twenty-five days prior to said election, copies of printed arguments favoring their petition, and the registrar shall not accept arguments favoring said petition without the approval of those filing said petition. If said proposition be submitted by the mayor or by the board of supervisors, or by one-third of the board of supervisors, they shall have a similar right to present copies of printed arguments. Said arguments, for or against, shall be printed and shall not exceed four pages, six by nine inches in size, for each proposition. Any person, committee or organization opposing the measure, policy, charter amendment, or recall placed before the voters may present, in like manner and of the same form and size and within the same time, printed arguments opposing said proposition. Copies of said arguments shall be delivered to the registrar equal in number to five per cent in excess of the total number of registered voters. The registrar shall cause one copy of each of said arguments to be mailed with the copy of the measure or the amendment.

Form of Ballot—Majority Vote

SECTION 184. The ballots used when voting upon any proposed measure, referendum, policy, recall or confirmation shall contain a general statement thereof, followed by the words "Yes" and "No," so arranged that the voter may indicate his choice upon the ballot. If a majority of the qualified electors voting on said proposed measure, referendum, policy, recall or confirmation shall vote in favor thereof, it shall go into effect ten days after the declaration of the official count. The general statement or question provided for in this section shall be prepared by the city attorney and shall consist of not over thirty words.

If the official proposed to be removed at any recall election shall, as the result of said election, be recalled, the mayor shall appoint his successor for the unexpired term and the officer so recalled shall be ineligible to hold any city and county office for two years; should said officer be retained in his office, he shall be reimbursed out of the special election fund for his expenses in such recall election; provided that such payment shall not exceed the amount he is permitted to spend under the Purity of Elections Act now in force.

Competing and Conflicting Measures—Repeal

SECTION 185. When two or more proposed measures are of the same general purpose, the registrar shall so declare, and shall cause the ballots to be so printed that the voter, first, may choose between any measure or none, and, secondly, may express his preference for any one. If a majority of the votes on the first question is affirmative, then the measure receiving the highest number of votes shall become law and the others fail of passage. In case two or more measures are tied for the highest vote, they shall be resubmitted at the next ensuing general election. If there is a conflict between two or more measures or between two or more charter amendments adopted at the same election, then the measure or charter amendment receiving the highest affirmative vote shall prevail.

No initiative, ordinance or measure or declaration of policy approved by the electorate under the provision of this charter shall be subject to veto, or be amended or repealed except by vote of the electorate, unless such ordinance or measure shall otherwise provide.

Substantial Compliance

SECTION 186. No informalities in conducting municipal, special, initiative, referendum or recall elections shall invalidate such elections if they have been conducted fairly and in substantial compliance with and conformity to the requirements of this charter.

ECOND SUPPLEMENT TO
948 EDITION OF CHARTER

This supplement contains:

1. History of Charter Legislation.
2. New and amended Charter sections.
3. Supplemental Index and Table of Deletions.
4. Supplemental Digest.

SUGGESTIONS FOR USE

In the front of the book substitute the new "History of Charter gislation" for the one presently contained therein.

Remove all of the Charter sections, or parts thereof, superseded the Charter sections contained in this envelope and, if it is desired to ain such superseded sections, place them at the back of the book hind the division sheet entitled "Superseded Sections".

In the back of the book, behind each subject division sheet, bstitute new "Supplemental Index" and "Supplemental Digest" for ose presently contained therein.

John R. McGrath
Clerk of the Board of Supervisors

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place. The board shall cause a calendar of the business scheduled for each meeting to be published and shall keep and publish a journal of its proceedings. Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

Suspension and Removal

Section 11. Any elective officer, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of a crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part. [*Amended, 1935; 1949. See Sec. 11, Art. VI of the Constitution*]

The vote on all ordinances and resolutions upon each reading shall be by ayes and noes. The vote by ayes and noes on all measures shall be recorded in the journal of the proceedings of the board. [*Amended, 1935*]

Resolution.—The Board of Supervisors could by resolution, approved by the Mayor, authorize contracts designed to put into effect the purposes and aims of the Housing Authorities Law. **Kleiber v. San Francisco** (1941) 18 Cal. (2d) 718, 117 Pac. (2d) 657.

Action designed merely to carry into effect law already enacted is administrative rather than legislative action and may be taken by resolution. **Kleiber v. San Francisco** (1941) 18 Cal. (2d) 718, 117 Pac. (2d) 657.

Any ordinance passed by a municipal corporation within the scope of the authority expressly conferred on it has the same force within its corporate limits as a statute passed by the Legislature has throughout the state. But an ordinance can no more change or limit the effect of the Charter than a statute can modify or supersede a provision of the Constitution. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

Compliance with Section.—No ordinance is valid unless and until the mandatory prerequisites to its enactment and performance are substantially observed. **Sullivan v. McKinley** (1939) 14 Cal. (2d) 113, 92 Pac. (2d) 892.

Although an ordinance is invalid if the mandatory prerequisites to its enactment are not substantially observed, it is sufficient if there is a substantial compliance with the prescribed procedural steps. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

Reference to Committee.—A resolution, as distinguished from an ordinance, need not be referred to a committee and come out of the committee before it can be considered. In the sentence, "no other resolution shall be adopted on the day of its introduction," the word "resolution" is an inadvertance and should be read "ordinance." **Skelly Estate v. San Francisco** (1937) 9 Cal. (2d) 28, 69 Pac. (2d) 171.

Exercise of powers of City and County to be by ordinance or resolution, see § 2.

Emergency measures, see also notes under § 16.

Emergency action by mayor without passage of ordinance, see notes under § 25.

Approval by Mayor—Reconsideration and Veto

SECTION 14. Each proposed resolution or ordinance voted on by the supervisors and failing of passage and each ordinance or resolution adopted by the supervisors shall, within twenty-four hours of such action, be transmitted to the mayor by the clerk of the board, with appropriate notation of the action of the board thereon. Any resolution acted upon by the board of supervisors by unanimous consent of those present on the date of the introduction of such resolution and any ordinance adopted by the board as an emergency measure shall be acted upon by the mayor within three days after receipt thereof by him from the clerk of the board. All other ordinances or resolutions shall be acted upon by the mayor within ten days of such receipt.

The mayor shall either approve each resolution or ordinance adopted by the supervisors by signing and returning same to the clerk of the board within the time limit, or he shall disapprove and veto any resolution or ordinance, or veto or reduce any separate appropriation item therein and shall return each such resolution or ordinance to the clerk of the board with his written objections within the time limit. His failure to make such return shall constitute approval and such ordinance or resolution shall take effect without the mayor's signed approval. The clerk of the board shall note such fact on the official copy of such resolution or ordinance. If any separate appropriation item in any resolution or ordinance is vetoed or reduced by the mayor as herein provided, the remainder of any such ordinance or resolution may be approved by the mayor and, if not specifically approved by the mayor, shall take effect without such approval and shall be so noted by the clerk of the board.

The board of supervisors may reconsider any resolution or ordinance vetoed or disapproved, or any separate appropriation item vetoed or reduced by the mayor, and if, after such reconsideration, two-thirds of all the members of the board shall vote in favor of passage thereof, it shall become effective notwithstanding the mayor's veto. If a larger vote is required for the adoption of a measure by the provisions of this charter, such larger vote shall be required to overcome the veto of the mayor. The vote of reconsideration of each such vetoed resolution, ordinance or separate appropriation item therein shall be taken at the convenience of the board. If the ordinance, resolution or separate appropriation item is not passed over the mayor's veto within thirty days, the measure or item shall be lost.

In the event of any absence of the mayor for which he or the board of supervisors has failed to designate an acting mayor, no resolution or ordinance adopted by the board of supervisors shall take effect by reason of the failure of the mayor to approve, or disapprove, and return such resolution or ordinance within the time limits applicable thereto, and, in such case, the time periods or limitations as fixed by this section shall not start until an acting mayor is appointed by the mayor or elected by the supervisors, as in this charter provided, or the return of the mayor.

Any proposed resolution or ordinance voted on by the board of supervisors and failing of passage shall be reconsidered by the board on the written request of the mayor, stating his reasons therefor, filed with the clerk of the board by the mayor within ten days of the board's action on such resolution or ordinance. The board shall reconsider such measure at its convenience, but not later than thirty days after the filing of the mayor's request therefor.

Record, Publication and Effect of Ordinances and Resolutions

SECTION 15. All ordinances, after final passage or upon their becoming effective shall be certified by the clerk of the board and recorded in a book kept for that purpose, and resolutions adopted shall be certified and recorded in like manner. Except in case of an emergency measure passed and not previously published, and except as otherwise specified in this charter, publication of ordinances and resolutions in full shall not be required after final passage. Notice that an ordinance or resolution has passed or become final shall be published once within five days of such final passage. To amend an ordinance which has proceeded to second reading shall require publication of the ordinance as amended and proceeding de novo.

Emergency Measures and Effective Date of Ordinances

SECTION 16. No ordinance which is subject to the referendum provisions of this charter shall become effective until thirty days after its passage. Ordinances granting any public utility franchise or privilege shall not become effective until sixty days after their passage. Other ordinances shall not become effective until ten days after their passage unless enacted by a three-fourths vote of all the members of the board as an emergency measure as defined in this section. No ordinance affecting franchises, grants, bond issues or the sale, lease or purchase of land shall ever be passed as an emergency measure, and the people by initiative or referendum ordinance may further restrict the matters that may be passed as emergency measures. Immediate necessary preservation of public peace, property, health or safety, provision for the uninterrupted operation of any city and county department or office, or action required to comply with time limitations as established by law.

shall be emergencies within the meaning hereof; provided, however, that such emergency shall actually exist and shall be specifically stated and defined in such ordinance, and shall be specifically voted on as provided in section 13 of this charter. [*Amended, 1935*]

Although the Charter can extend the limitations on the powers of the Supervisors, and thereby add to the reserved powers in the electors, it cannot by definition or otherwise limit the reserved power of referendum defined in Const. art. iv, § 1. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

The constitutional provision that no measure creating or abolishing any office or changing the salary, term or duties of any officer shall be construed as an emergency measure (Const. art. iv, § 1) defined in part what the reserved power of referendum shall be, and any ordinance in conflict therewith is invalid. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

The constitutional reservation of referendum (Const. art. iv, § 1) is read into and becomes a part of the Charter with the same effect as though it had been expressly incorporated therein, in view of Const. art. xi, § 8, permitting a city or city and county to frame a Charter for its own government "consistent with and subject to this Constitution." **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

A police captain is a public officer within Const. art. iv, § 1, declaring that no measure creating or abolishing any office, or changing the salary, term or duties of any officer shall be construed to be an emergency measure. Accordingly, an ordinance passed as an emergency measure is void where it creates additional positions as captains of police, and a further ordinance purporting to appropriate funds to pay the salaries attached to such offices should fall with it. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

Emergency action of mayor without passage of ordinance, see notes under § 25.

Codification and Rearrangement of Ordinances

SECTION 17. Ordinances previously adopted and continuing in force may be codified and rearranged, and thereupon shall be published in book form. Provision for codification and rearrangement may be made in one ordinance containing one or more subjects. Such publication shall constitute publication of the ordinance or several ordinances contained in each book or pamphlet so published. Any such publication shall contain a joint certificate of the mayor, the clerk of the board of supervisors and the city attorney of the correctness of such arrangement and publication. With any publication of the charter, there shall be included initiative ordinances and digests of reported court decisions relating to said charter and ordinances.

order of the court, defend or give counsel or advice to any person charged with the commission of a crime. [*Salary of public defender now subject to Section 151.1.*]

Assistants and Employees in Elective Offices

SECTION 34. The elective officers of the city and county may appoint such assistants and employees as are authorized by the supervisors upon the recommendation of the mayor, in the annual budget and annual or supplemental appropriation ordinances, and may discipline and remove the same, subject to the civil service provisions of this charter except as otherwise specifically exempted by the provisions of this charter. Each assistant attorney in the offices of the city attorney, the district attorney and the public defender must, at the time of his appointment, be qualified to practice in all the courts of the state and must have been so qualified for at least two years next preceding his appointment. The salaries, wages and compensation of every kind and nature, except pensions and retirement allowances, for assistants and employees in such elective offices, shall be fixed as provided by the salary standardization provisions of this charter.

Employees in Offices of City Attorney and Public Defender, Except Attorneys, Under Civil Service

SECTION 34.1. Notwithstanding any other provisions of this charter, occupants of all positions in the offices of city attorney and the public defender, except assistant attorneys in the offices of the city attorney and the public defender, shall be subject to the civil service provisions of this charter, provided that all such occupants who are actually employed, or who may be on military leave of absence from employment, on the effective date of this amendment, and who have been continuously employed for one year immediately preceding such date or such military leave, shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles, and thereafter shall be governed and be subject to the civil service provisions of this charter. Upon their return to service, occupants who have been on military leave shall be appointed according to priority of service. [*New section, 1945*]

prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

Any member assigned to two-wheel motorcycle traffic duty shall receive $15 per month in addition to the compensation to which he would otherwise be entitled. [*New section, 1943; amended, 1946; 1947; 1948; 1949*]

SECTION 35.5½. (a) The word "member" or "members" as used in this section shall mean the members of the several ranks in the police department set forth in section 35.5 of this charter.

(b) The basic week of service for each member shall be not more than forty-four (44) hours and the annual compensation set forth in section 35.5 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least one (1) day off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the police commission public interest requires the services of any member to serve in excess of the basic week of service during any week, the said police commission may authorize the chief of police to permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this subsection. For service performed in excess of the basic week, members shall be compensated on the basis of straight time in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in section 35.5, or in lieu thereof equivalent time off duty with pay.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in section 151 of this charter, or the normal day off per week; provided, however, that when in the judgment of the police commission public necessity requires the services of any member to serve on his vacation, or part thereof, or normal day off, the said commission may authorize the chief of police to permit said member to serve during said vacation, or part thereof, or normal day off, and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of straight time in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensations provided therefor in section 35.5.

(f) The police commission is hereby authorized to require a member or members to work more than forty-four (44) hours per week in any week when public necessity requires such services, and the member or members so serving more than forty-four (44) hours shall be granted added compensation or time off with pay for said extra service performed.

(g) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part I, of the San Francisco Municipal Code, approving rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(h) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignments, prior to going on duty, the said commission may designate a period not to exceed fifteen (15) minutes in any one day for said reporting, and the said periods of fifteen (15) minutes need not be compensated for in money or in time off with pay.

(i) Notwithstanding the provisions of any of the foregoing subsections, the police commission is empowered to designate certain legal holidays as additional days off with pay for members of the police department and members required to perform police service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of said commission.

(j) This section shall become effective on the 1st day of July, 1948, provided the same is ratified prior to said date by the Legislature of the State of California. If not ratified prior to said date, this section shall become effective on the 1st day of the month immediately following the date of ratification. [*New section, 1944; amended, 1947, 1948*]

SECTION 35.6. The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place in which the business is conducted or maintained is not a proper or suitable place in which to conduct or maintain such business or calling. [*New section, 1943*]

The Chief of Police may revoke a permit only for good cause as set forth in the section. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

The action of the Chief of Police was not to issue a new permit to operate taxicabs, necessitating a certificate of public necessity and convenience, but a revival where, following a request for a temporary cancellation of permits for a specified number of taxicabs and an order of the Board of Police Commissioners that the permits were "cancelled," the Chief of Police declared that the permit has been and was in full force, and the evidence sustained such conclusion of the Board of Permit Appeals. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

Resolution of Police Commission authorizing Chief of Police to revoke license for refusal to return stolen property, see notes under § 24.

SECTION 35.7. In the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority, the chief of police, in the lawful exercise of his functions, shall have all the powers that are now or that may be conferred on the sheriff by the laws of this state. [*New section, 1943*]

SECTION 35.8. The supervisors shall provide in the annual budget, an amount not to exceed in any one fiscal year the sum of $10,000 to be known as the contingent fund of the chief of police. The chief of police may from time to time, disburse such sums for contingent expenses of the department as in his judgment shall be for the best interests of the city and county, and the police commission shall allow and order paid out of such contingent fund, upon orders signed by the chief of police, such amounts as may be required. [*New section, 1943*]

SECTION 35.9. At his discretion or upon the petition of any person, firm or corporation, the chief of police may appoint, and at his pleasure remove special police officers. Such officers shall be subject to all the rules and regulations of the department. [*New section, 1943*]

SECTION 35.10. The police commission may appoint patrol special officers and for cause may suspend or dismiss said patrol special police officers after a hearing on charges duly filed with the commission and after a fair and impartial trial. Each patrol special police officer shall be at the time of his appointment not less than twenty-one years of age nor more than forty years of age and must possess such physical qualifications as may be required by the commission. Age qualifications shall not apply to present patrol special police officers acting as such at the time of the effective date of this amendment nor to their reappointment. Patrol special police officers who are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by said commission or the legal heirs or representatives of said owners, may dispose of their interest in said beat or territory to a person of good moral character, approved by the police commission and eligible for appointment as a patrol special police officer. [*New section, 1943*]

A patrol special police officer appointed pursuant to the section is an employee of San Francisco within § 172. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207; **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

SECTION 35.11. On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance. [*New section, 1943*]

SECTION 35.12. The chief of police shall have the power, by regulation, to provide for the care and restitution of property that may come into possession of any officer or employee thereof, and the sale at public auction of all such unclaimed property, as well as the disposition of such property as shall consist of weapons or articles used or that may be used in the commission of crime, or the sale or disposition of which is prohibited by law. [*New section, 1943*]

SECTION 35.13. This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. [*New section, 1943*]

> The provision of the 1943 amendment that the amendment "shall become effective when the joint resolution approving such amendment is filed with the Secretary of State and the Board of Supervisors has appropriated funds necessary in connection therewith, but not later than July 1, 1943," had the effect of deferring the effective date until the Board of Supervisors had appropriated the funds. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

DEPARTMENTS UNDER MAYOR
(Continued)

Park Department

Section 40. The park department shall be under the management of a park commission consisting of five members who shall be appointed by the mayor and shall serve without compensation. The term of office of each commissioner shall be four years, provided that the commissioners in office at the time this charter shall go into effect shall be continued in office until twelve o'clock noon on the 15th day of January of the year of expiration of their terms, and thereafter their successors shall be appointed for four-year terms, commencing at twelve o'clock noon on the 15th day of January in such respective years.

The park commission shall appoint a secretary and a superintendent of parks and director of the zoo, who shall hold office at its pleasure. The superintendent shall be the chief executive of the department. He shall appoint all other employees of the said department and such appointments exclusive of those in part time service where the compensation including valuation of maintenance or other allowances is less than $80 per month shall, beginning September 1, 1941, be subject to the civil service provisions of this charter. Occupants of positions hereby made subject to the civil service provisions of the charter who occupied such positions on the 1st day of September, 1941, and who have occupied the same for one year immediately prior thereto, shall be continued in their positions as if appointed thereto, after examination and certification from a list of eligibles and shall be governed thereafter by the civil service provisions of the charter. Compensation of employees of the park department shall be subject to standardization to the same extent as are compensations of employees in other departments which are now subject to salary standardization.

The park commission shall be successors in office of the park commissioners holding office in the city and county at the time this charter became effective and shall have all the powers and duties thereof, except ordinance making powers and except as in this charter otherwise provided. [*Amended, 1941*]

Control of Parks

Section 41. The commissioners shall have the complete and exclusive control, management, and direction of the parks, squares, avenues, grounds and recreation centers, now or hereafter placed under charge of the commission, including exclusive right to erect and to superintend the erection of buildings and structures thereon, except as in this charter otherwise provided.

The commissioners shall not lease any part of the lands under its control nor permit the building or maintenance or use of any structure on any park, square, avenue or ground, except for recreation purposes, and each letting or permit shall be subject to the approval of the board of supervisors by ordinance, but the commission may lease to the highest responsible bidder for a term not to exceed fifty years and upon such other terms and conditions as it may determine, sub-surface space under any public park and the right and privilege to conduct and operate therein a public automobile parking station, provided that the said construction, when completed, and the operation will not be, in any material respect or degree, detrimental to the original purpose for which said park was dedicated or in contravention to the conditions of any grant under which said park might have been received. The revenues derived from any such lease shall be credited to the park fund.

The commission shall have power to lease any stadium or recreation field under its jurisdiction for athletic contests and exhibitions and may permit the lessee to charge an admission fee.

In the adoption of this section the City and County acted under the constitutional grant of power in Const. art. xi, §§ 8, 8a, 8½, and in thus dealing with its own lands it was not restricted by any constitutional provision. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (2d) 639.

It was within the charter powers of the Board of Park Commissioners to execute a fifty-year lease of the subsurface space beneath Union Square for the purpose of erecting and constructing thereon a public automobile garage and parking station, even though this entailed a temporary suspension of surface use during construction and a permanent use of a small portion of the surface for entrances and exits. **San Francisco v. Linares** (1940) 16 Cal. (2d) 441, 106 Pac. (2d) 639.

Although the Charter grants to the Park Commission the exclusive control and management of parks, including the exclusive right to erect and to superintend the erection of buildings, the authority may not be exercised in such manner as to create a public nuisance, and the courts will interfere to prevent the commission from building an overground comfort station in a park in such manner as to constitute a nuisance. **Hassel v. San Francisco** (1938) 11 Cal. (2d) 168, 78 Pac. (2d) 1021.

DEPARTMENTS UNDER MAYOR
(Continued)

Sale, Abandonment or Discontinuance of Use of Land Held for Park Purposes

Section 41.1. Notwithstanding any other provisions of this charter, whenever lands which are or shall be used or intended for use for parks or squares are no longer needed for park or recreational purposes, such lands may be sold or otherwise disposed of, or their use for park purposes may be abandoned or discontinued; provided that nothing herein shall be construed to authorize the discontinuance or abandonment of the use of such lands, or any change in the use thereof which will cause the reversion of such lands to private ownership, or cause the forfeiture of the ownership thereof in fee by the City and County of San Francisco, or as authorizing the discontinuance of the use of park lands acquired in any proceeding wherein a local assessment based on benefits was or shall be levied to provide funds for such acquisition; and provided further that the general laws of the State of California authorizing municipal corporations to abandon or to discontinue the use of land for park purposes, authorizing the sale or other disposition of such lands, and providing procedures therefor and for matters relating thereto, shall be applicable to the City and County of San Francisco and to all lands held or used by it for park purposes and shall govern and control exclusively in respect thereto. [*New section, 1949*]

DEPARTMENTS UNDER MAYOR

(Continued)

Recreation Department

Section 42. The recreation department shall be under the management of a recreation commission consisting of seven members, five of whom shall be appointed by the mayor, and shall serve without compensation. Three of the members appointed by the mayor shall be men and two shall be women. The superintendent of schools and the superintendent of parks shall be members of the commission ex officio.

The term of each of the commissioners, except the ex officio members of said commission, shall be four (4) years, provided that the commissioners in office on the effective date of this amendment shall be continued in their respective offices until the respective terms for which they were appointed shall have expired, subject, however, to the right of the mayor to remove any commissioner from office as provided by this charter. Upon expiration of the term of each commissioner, the mayor shall appoint his or her successor for a term of four (4) years. The mayor shall have the power to fill any vacancy on the commission, said appointment being for the unexpired term of the commissioner vacating his office.

The recreation commission shall appoint a superintendent, who shall be the chief executive officer of said department, and who shall hold office at the pleasure of the commission.

The commissioners shall have the complete and exclusive control, management and direction of all playgrounds, recreation centers, and all other recreation facilities, now or hereafter placed under charge of the commission, including exclusive right to erect and to superintend the erection of buildings and structures thereon, and to construct new playgrounds and recreation centers, except as in the charter otherwise provided. [*Amended 1943; 1945*]

Library Department

Section 43. The library department shall be under the management of a library commission consisting of eleven members who shall be appointed by the mayor and shall serve without compensation.

The eleven library trustees constituting the board of library trustees in office at the time this charter shall go into effect shall, by lot, classify their respective terms of office so that three of such terms shall begin at twelve o'clock noon on the 15th day of January, 1932, 1933, and 1934, respectively, and two such terms shall begin at twelve o'clock noon on the 15th day of January, 1935. The term of each commissioner shall be four years, at the expiration of which the mayor shall appoint his successor.

The library commission shall appoint a librarian and a secretary who shall hold office at its pleasure. The librarian shall be the chief executive of the department and shall be the appointing officer for the department as provided in section 20 of the charter.

Commencing on the 1st day of January, 1942, all positions in the library department except those of librarian and secretary of the library commission and part time services carrying compensation of less than $80 per month including valuation of maintenance or other allowances shall be subject to the civil service provisions of this charter, and upon said date, any incumbent of such position in the library department, hereby made subject to civil service, who shall have held such position continuously for one year prior thereto, shall be deemed appointed to such position under the civil service provisions of this charter.

The library commission shall be the successors in office of the board of library trustees holding office at the time this charter shall go into effect and shall have all the powers and duties thereof, except as in this charter otherwise provided. [*Amended, 1941*]

War Memorial

SECTION 44. The board of trustees of the San Francisco war memorial shall, under ordinance, have charge of the construction, administration and operation of said war memorial and of the grounds set aside therefor. The board shall consist of eleven members appointed by the mayor, subject to confirmation by the board of supervisors. The terms of office of the incumbent trustees shall expire as heretofore classified by lot, as follows: The terms of four of said trustees shall expire on the 2nd day of January, 1933; three on the 2nd day of January, 1935; and four on the 2nd day of January, 1937. Thereafter appointments to said board shall be for the term of six years. Vacancies on said board shall be filled by the mayor, subject to confirmation by the board of supervisors, for the unexpired term becoming vacant. In making appointments to said board, the mayor shall give due consideration to veterans of all wars in which the United States may have engaged, and to such other classes of persons who may have a special interest in the purpose for which said war memorial is to be constructed and maintained. The members of said board shall serve without compensation.

The board shall have the power to appoint a secretary and a managing director, each of whom shall hold office at its pleasure, and such other employees as may be provided by the annual budget and appropriation ordinance.

The board of supervisors shall annually appropriate to the war memorial board an amount sufficient to defray the cost of maintaining, operating and caring for said memorial.

Art Commission

Section 45. An art commission for the city and county is hereby created, consisting of ten members appointed by the mayor and six ex officio members. The ex officio members shall be the mayor and the chairmen of the following boards and commissions: Public library, park, city planning, de Young Memorial Museum and California Palace of the Legion of Honor. The mayor shall appoint three lay members, and an artist-painter, an artist-sculptor, a musician, a litterateur, two architects and one landscape architect. In appointing the seven professional members, the mayor shall solicit nominations from architectural, art, musical, literary and other cultural organizations of the city.

The first appointments by the mayor shall be made not later than the 15th day of January, 1932, and shall be for the following terms, which shall expire at twelve o'clock noon on the 15th day of January in the respective years: One landscape architect and one lay member, one-year terms; one artist-sculptor and one architect, two-year terms; one musician and one lay member, three-year terms; one litterateur and one architect, four-year terms; and one artist-painter and one lay member, five-year terms. Upon the expiration of the terms, all successive appointments shall be for a period of five years.

The members of the commission shall serve without compensation. No member of this commission shall receive from the city and county, or from any trust, donation, or legacy, any compensation for any service as an artist for the benefit of the city and county.

Powers and Duties

Section 46. No work of art shall be contracted for or placed or erected on property of the city and county or become the property of the city and county by purchase, gift or otherwise, except for any museum or art gallery, unless such work of art, or a design or model of the same as required by the commission, together with the proposed location of such work of art, shall first have been submitted to and approved by the commission. The term ''work of art'' as used in this charter shall comprise paintings, mural decorations, stained glass, statues, bas reliefs or other sculptures; monuments, fountains, arches or other structures of a permanent or temporary character intended for ornament or commemoration. No existing work of art in the possession of the city and county shall be removed, relocated or altered in any way without the approval of the commission, except as otherwise provided herein. The commission shall have similar powers with respect to the design of buildings, bridges, viaducts, elevated ways, approaches, gates, fences, lamps or other structures erected or to be erected upon land belonging to the city and county, and concerning arches, bridges, structures and approaches which are the property of any corporation or private individual and which shall extend over or upon any street, avenue, highway, park or public place belonging to the city and county. Said commission shall so act and its approval shall be required for every such structure which shall hereafter be erected or contracted for, and may advise in respect to lines, grades and platting of public ways and grounds.

Nothing herein contained shall be construed to limit or abridge the legal powers of the governing boards of the war memorial, the M. H. de Young Memorial Museum or the California Palace of the Legion of Honor.

The commission shall supervise and control the expenditure of all appropriations made by the board of supervisors for music and the advancement of art or music.

The commission shall exercise all reasonable supervision of policy connected with the arts as may hereafter be assigned to it by ordinance or executive action.

The commission shall decide upon any expenditure of less than one thousand dollars ($1,000) within fifteen days after submission, and upon any other matter within thirty days after submission. If it fails so to do, its decision shall be considered unnecessary.

The commission may volunteer advice or suggestion to the owners of private property in relation to the beautification of the same; and any person contemplating to erect any building or make any improvement may submit the plans and designs or sketches thereof to the art commission for advice and suggestions, for which no charge shall be made by the art commission.

8. Until the purchase price of said operative properties shall have been paid in full, the commission is hereby authorized to fix, establish and collect uniform rates, charges and fares for the transportation of persons on both the municipal railway and the said operative properties, without regard to section 130 of the charter, except as herein provided, and provided that such rates, charges and fares shall not be less than those specified in this section 119.1. After the purchase price of said operative properties shall have been paid in full all rates, charges and fares for transportation service furnished by the then unified and extended municipal railway shall be fixed, established and collected only in accordance with the then existing provisions of the charter, without regard to this section 119.1. [*New section, 1944*]

Emergency powers of Mayor relating to compensation of employees of Market Street Railway, on its acquisition by city, see notes under § 25.

Payment of Balance Due Market Street Railway

Section 119.2. Notwithstanding anything contained in section 119.1 of the charter, or any other provision thereof, the City and County of San Francisco may fund, refinance and pay the entire balance due Market Street Railway Company for the cost of the acquisition of the operative properties of Market Street Railway Company out of current revenues or the proceeds of the sale of any bonds of the City and County of San Francisco which may be authorized for that purpose.

Bonds of the city and county issued to fund or refinance such unpaid balance due Market Street Railway Company may be issued substantially in the form and manner and under the procedure provided by law for the refunding of any outstanding bonded indebtedness of municipalities. [*New section, 1948*]

Operation of Cable Cars

Section 119.3. In the conduct of the municipal railway the public utilities commission shall maintain and operate the present and existing cable car system now operated by the municipal railway, in the interest of public safety and convenience and as a link with San Francisco's historic past.

This section shall have precedence over section 121 of the charter of said city and county and any other section deemed in conflict herewith. [*New section, 1948*]

CIVIL SERVICE

(Continued)

Standardization of Compensation

SECTION 151. The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as in this section provided, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

Compensations specified in this charter shall not be subject to the provisions of this section. Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than fifty dollars ($50) per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a department head, only with the approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

In fixing schedules of compensation as in this section provided, the civil service commission shall prepare and submit to the board of supervisors and the board shall adopt a schedule of compensations which shall include all classifications, positions and places of employment the wages or salaries for which are subject to the provisions of this section; provided, that the civil service commission shall from time to time prepare and submit to the board of supervisors and the board shall adopt amendments to the schedule of compensations which are necessary to cover any new classifications added by the civil service commission. Under the schedules of compensation recommended by the civil service commission and adopted by the board of supervisors as herein provided, like compensation shall be paid for like service, based upon the classification as provided in section 141 of the charter, and for those classifications of employment in which the practice is customary, the proposed schedules of compensation shall provide for minima, intermediate, and maxima salaries and for a method of advancing the salaries of employees from the minimum to the intermediate and to the maximum with due regard to seniority of service. The compensations fixed as herein provided shall be in accord with the generally prevailing rates of wages for like service and working conditions in private employment or in other comparable governmental organizations in this state; provided, that for specialized services which are peculiar to the municipal service and not duplicated elsewhere in private or other governmental organizations in this state, the commission shall recommend and the board of supervisors shall fix a compensation which shall be in accord with the wages paid in private employment or other governmental organizations in the state for the nearest comparable service and working conditions; and provided further that if the civil service commission determines on the basis of facts and data collected as hereinafter provided that the rates generally prevailing for a particular service in private employment or in other governmental organizations are inconsistent with the rates generally prevailing in private employment or other governmental organizations for services requiring generally comparable training and experience, the commission shall set forth these data in its official records and shall recommend and the board of supervisors shall fix a compensation for such service that shall be consistent with the compensations fixed by the board of supervisors for other services requiring generally comparable training and experience; and provided further that the minimum compensation fixed for full time employments subject to the civil service provisions of this charter shall be not less than one hundred and six dollars ($106) per month.

The proposed schedules of compensation or any amendments thereto shall be recommended by the civil service commission solely on the basis of facts and data obtained in a comprehensive investigation and survey concerning wages paid in private employment for like service and working conditions or in other governmental organizations in this state. The commission shall set forth in the official records of its proceedings all of the data thus obtained and on the basis of such data the commission shall set forth in its official records an order making its findings as to what is the generally prevailing rate of pay for each class of employment in the municipal service as herein provided, and shall recommend a rate of pay for each such classification in accordance therewith. The proposed schedules of compensation recommended by the civil service commission shall be transmitted to the board of supervisors, together with a compilation of a summary of the data obtained and considered by the civil service commission and a comparison showing existing schedules. Before being presented to the board of supervisors for consideration, the proposed schedules and a comparison with existing schedules shall be published once a week for two weeks.

The board of supervisors may approve, amend or reject the schedule of compensations proposed by the civil service commission; provided, that before making any amendment thereto the data considered by the board of supervisors as warranting such amendment shall be transmitted to the civil service commission for review and analysis and the commission shall make a report thereon to the board of supervisors, together with a report as to what other changes, and the cost thereof such proposed amendment would require to maintain an equitable relationship with other rates in such schedule.

Where any compensation paid on January 1, 1931, is higher than the standard compensation fixed as provided in this section for such position or employment, said compensation shall be continued to the incumbent of such position as long as he legally holds said position, and department heads, in cooperation with the civil service commission where said commission has jurisdiction, shall continuously offer all possible opportunities to said incumbents to assume duties and responsibilities in higher classifications consistent with the higher rates of compensation hereby continued. The salaries and wages paid to employees whose compensations are subject to the provisions of this section shall be those fixed in the schedule of compensations adopted by the board of supervisors as herein provided and in accord with the provisions of the ordinance of the board of supervisors adopting the said schedule, and the compensations set forth in the budget estimates, and the annual salary ordinance and appropriations therefor shall be in accord therewith.

Not later than January 15, 1944, and every five years thereafter and more often if in the judgment of the civil service commission or the board of supervisors economic conditions have changed to the extent that revision of existing schedules may be warranted in order to reflect current prevailing conditions, the civil service commission shall prepare and submit to the board of supervisors a schedule of compensations as in this section provided. A schedule of compensations or amendments thereto as provided herein which is adopted by the board of supervisors on or before April 1 of any year shall become effective at the beginning of the next succeeding fiscal year and a schedule of compensations or amendments thereto adopted by the board of supervisors after April 1 of any year shall not become effective until the beginning of the second succeeding fiscal year. The board of supervisors shall appropriate twelve thousand five hundred dollars ($12,500) to the civil service commission to be known as the salary survey fund and to be used exclusively for defraying the cost of surveys of wages in private employment and in other governmental jurisdictions and making reports and recommendations thereon and publication thereof as herein provided. No expenditures shall be made therefrom except on authorization of board of supervisors. In the event of the expenditure of any of said funds, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said salary survey fund.

Where compensations for services commonly paid on an hourly or a per diem basis are established on a weekly, semi-monthly or monthly salary basis for city and county service, such salary shall be based on the prevailing hourly or per diem rate, where this can be established, and the application thereto of the normal or average hours or days of actual working time, in the city and county service, including an allowance for annual vacation. Every person employed in the city and county service shall, after one year's service, be allowed a vacation with pay of two calendar weeks, annually, as long as he continues in his employment. [*Amended, 1943*]

Rules adopted by the Civil Service Commission under the rule-making power of the Charter and not in conflict with it have the same force and effect as the Charter. **Mitchell v. McKevitt** (1932) 128 Cal. App. 458, 461, 17 Pac. (2d) 789; **Bruce v. Civil Service Board** (1935) 6 Cal. App. (2d) 633, 637, 45 Pac. (2d) 419; **Viner v. Civil Service Commission** (1943) 59 Cal. App. (2d) 458, 139 Pac. (2d) 88.

During an emergency this section may be superseded by § 25. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Repeal of Emergency Proclamations.—Emergency proclamations of the Mayor fixing the compensation of employees of a newly acquired street railway were not repealed by Standardization and Annual Salary Ordinances subsequently adopted, where they did not deal with the actual emergency, but were based on normal pay and were enacted as part of the ordinary financial machinery of the City, to become effective only after the emergency had passed. **Mullins v. Henderson** (1946) 75 Cal. App. (2d) 117, 170 Pac. (2d) 118.

Where valid ordinances adopted before the effective date of the new Charter (Jan. 8, 1932) provided for a 5-day week and a 254-day year instead of the 270-day year on which the budget for that year was based, and where new salary ordinances subsequent to January 9, had not been adopted, a civil service employee was entitled to his salary based on the previous ordinances, although the new work week had the effect of increasing his wage per month. **King v. Leavy** (1932) 124 Cal. App. 422, 12 Pac. (2d) 661.

The provision that the compensation for municipal employees "shall be in accord with the generally prevailing rate of wages for like service and working conditions in private employment or in other comparable governmental organizations in this state," does not require that the rates of wages recommended by the Civil Service Comission or fixed by the Board of Supervisors be identical with or not higher than the generally prevailing rates, but rather that there be a reasonable or just correspondence between the rates established and those elsewhere prevailing, i.e., that they be in harmony with and substantially conform to such other rates. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

Procedural Requirements.—There was a substantial compliance with the procedural requirements of the section where the Civil Service Commission made a survey of rates of wages paid in like employment for like service and where, although the commission did not set forth in the official record of its proceedings, all of the data obtained in its investigation or set forth an order making its findings as to the general prevailing rates, it did in formulating its recommendations have before it and consider all the facts collected in the survey, and it set forth a summary of wage recommendations and supporting data, which listed the present rate paid by the municipality, the prevailing union wages and appropriate prevailing wage for all the designated employees. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

Compensation of persons employed prior to effective date of Charter, see notes under § 71.

Officers Subject to Salary Standardization

Section 151.1. Notwithstanding any other provisions or limitations of this charter, the compensations of all elective and appointive officers of the city and county, except members of the board of supervisors and of other boards and commissions, the superintendent of schools and members of the several ranks of the police and fire departments, shall be fixed in accordance with the salary standardization provisions of this charter. [*New section, 1946; amended, 1947*]

[Section 151.2. No section for this number.]

Basis of Standardization of Compensations of Certain Employees

Section 151.3. Notwithstanding any of the provisions of section 151 or any other provisions of this charter, whenever any groups or crafts establish a rate of pay for such groups or crafts through collective bargaining agreements with employers employing such groups or crafts, and such rate is recognized and paid throughout the industry and the establishments employing such groups or crafts in San Francisco, and the civil service commission shall certify that such rate is generally prevailing for such groups or crafts in private employment in San Francisco pursuant to collective bargaining agreements, the board of supervisors shall have the power and it shall be its duty to fix such rate of pay as the compensations for such groups and crafts engaged in the city and county service. The rate of pay so fixed by the board of supervisors shall be determined on the basis of rates of pay certified by the civil service commission on or prior to April 1st of each year and shall be effective July 1st following; provided, that the civil service commission shall review all such agreements as of July 1st of each year and certify to the board of supervisors on or before the second Monday of July any modifications in rates of pay established thereunder for such crafts or groups as herein provided. The board of supervisors shall thereupon revise the rates of pay for such crafts or groups accordingly and the said revised rates of pay so fixed shall be effective from July 1st of the fiscal year in which the said revisions are determined.

Should the budget estimates for the several departments be filed with the controller or transmitted to the mayor before any such report of said civil service commission is received by the board of supervisors, the head of each department affected by such report may amend its budget estimate to comply with the provisions of such report.

Notwithstanding the provisions of section 151 or any other provisions of this charter the wages of platform employees and bus operators of the municipal railway shall be determined and fixed, annually, as follows:

(A) On or before the second Monday of July of each year the civil service commission shall certify to the board of supervisors the two highest wage schedules in effect on July 1st of that year for platform employees and bus operators of other street railway systems in the State of California;

(B) The board of supervisors shall thereupon fix wage schedules for platform employees and bus operators of the municipal railway which shall be the average of the two highest wage schedules so certified by the civil service commission; provided, if the average of the two highest wage schedules shall be less than the rates of pay fixed for such service in the salary standardization ordinance adopted by the board of supervisors on March 18, 1946, the board of supervisors shall fix wage schedules for such service which shall be the same as the rates fixed for such service in the said ordinance;

(C) When, in addition to their usual duties, such employees are assigned duties of instructors of platform employees or bus operators they shall receive twenty (20c) cents per hour above the rates of pay fixed for platform employees and bus operators as herein provided;

(D) The rates of pay so fixed for platform employees and bus operators as herein provided shall be effective from July 1st of the fiscal year in which such rates of pay are certified by the civil service commission;

(E) Platform employees and bus operators shall be paid one and one-half times the rate of pay fixed as herein provided for all work performed on six days specified as holidays by ordinance of the board of supervisors for such employees.

Within thirty days after the ratification of this amendment, the board of supervisors shall fix wage schedules for the fiscal year 1946-1947 for the crafts and groups subject to the provisions of this section and which wage schedules shall be effective commencing July 1, 1946.

Not later than the 25th day of July in each year the board of supervisors shall have power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance to include the provisions necessary for paying the rates of compensation fixed by the board of supervisors as in this section provided for the then current fiscal year.

Notwithstanding any other provision of this charter, not later than thirty days after the effective date of this amendment, the board of supervisors shall have power and it shall be its duty, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance for the fiscal year 1946-1947 to include the provisions necessary for paying from July 1, 1946, the rates of compensation fixed by the board of supervisors as in this section provided for the fiscal year 1946-1947 out of such funds as the controller certifies are available. [*New section, 1946; amended, 1947*]

PENSIONS AND RETIREMENT
(Continued)

Miscellaneous Officers and Employees

SECTION 165. Officers and employees of the city and county, except members of the police and the fire departments, shall become members of the retirement system subject only to the following provisions, in addition to the provisions contained in sections 158 to 164, of this charter, both inclusive:

(a) The system shall be applied to such offices, departments, bureaus, or classes of officers or employees of the city and county, including teachers in the San Francisco school department, as the supervisors shall determine; provided, however, that the contributions to be made by said teachers and the benefits to be received by said teachers under said retirement system shall be based upon the proportion of salaries of said teachers which have been and shall be paid out of funds contributed by the city and county, excluding therefrom the portion of such salaries which have been or shall be paid out of funds contributed by the State of California; and in determining such proportion it shall be taken to be the same proportion which the whole amount of money contributed by the city and county to the common school fund in any fiscal year bears to the whole amount of money contributed to such fund in such year by the state and by the city and county; and provided, further, that nothing herein contained shall be construed to deprive any teacher of the right to receive benefits under any pension or retirement system now or hereafter established by the State of California.

(b) No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years and completed ten years of continuous service, but retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

(c) All persons who were retired prior to October 1, 1925, from service as teachers in the public schools of San Francisco, under the provisions of the law of 1913, establishing the California

Public School Teachers' Retirement Salary Fund, shall be entitled to and shall receive retirement allowances, to be calculated on the same basis as that established for determining the retirement allowances provided for members of the said retirement system.

Sunder v. Collins, see § 163.

Pacific Gas & Electric Company Employees

SECTION 165.1. The board of supervisors shall have the power to provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said city and county and the Pacific Gas & Electric Company, and because of their employment by said company at the effective date of said lease, or other temporary arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said city and county upon purchase or other permanent acquisition of the properties of said company, essentially the same benefits on account of service rendered as employees of said city and county, as they would have received if they had been members throughout said service of the San Francisco City and County Employees' Retirement System on the same basis as other employees of said city and county, except members of fire or police departments. [*New section, 1941*]

Retirement—Miscellaneous Officers and Employees

SECTION 165.2. Miscellaneous officers and employees, as defined in this section, who are members of the retirement system under section 165 of the charter on the effective date hereof, hereby designated as the first day of July, 1947, and persons who become miscellaneous officers and employees after said effective date, shall be members of the retirement system on and after said date, subject to the following provisions of this section, in addition to the provisions contained in sections 158 to 161, both inclusive, of this charter notwithstanding the provisions of any other section of the charter, provided that the retirement system shall be applied to persons employed on a part-time, temporary or substitute basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the retirement system under section 165 of the charter on said effective date, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof, of being members of the system under section 165 instead of this section, the election under said option to be effective on said effective date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 161 of the charter, on the effective date of the amendment, shall have the same option of electing to be members under section 165 instead of this section, until ninety days after their return to service. On and after said date, the persons who affirmatively exercise said option, shall continue to be members of the system under section 165 and shall not be subject to any of the provisions of this section.

(A) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

''Retirement allowance,'' or ''allowance,'' shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

''Compensation,'' as distinguished from benefits under the workmen's compensation laws of the State of California, shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, excluding that part of such remuneration which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

''Compensation earnable'' shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city-service he was in the position first held by him in city-service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the retirement system in which his average final compensation is the highest, excluding that part of such remuneration which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the retirement system and of this section, the terms "miscellaneous officer or employee," or "member," as used in this section shall mean any officer or employee who is not a member of the fire or police departments as defined in the charter for the purpose of the retirement system, under section 165 of the charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

"Retirement board" shall mean "retirement board" as created in section 159 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

(B) Any member who completes at least twenty years of service in the aggregate credited in the retirement system and attains the age of fifty-five years, or at least ten years of service in the aggregate credited in the retirement system, and attains the age of sixty years, said service to be computed under subsection (G) hereof, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of seventy years during the twelve months ending June 30, 1948; the age of sixty-nine years during the twelve months ending June 30, 1949; the age of sixty-eight years during the twelve months ending June 30, 1950; the age of sixty-seven years during the twelve months ending June 30, 1951; the age of sixty-six years during the twelve months ending June 30, 1952; and thereafter, following the attainment of the age of sixty-five years. A member retired after reaching the age of sixty years shall receive a service retirement allowance at the rate of 1⅔ per cent of said average final compensation, for each year of service. The service retirement allowance of any member retiring prior to attaining the age of sixty years, after rendering twenty years or more of such service and having attained the age of fifty-five years, computed under subsection (G), shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled upon retirement at age sixty and with the service credited at the date of actual retirement. Before the first payment of a retirement allowance is made, a member retired under this subsection or subsection (C) of this section, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits. The portion of service retirement allowance provided by the city and county's contributions shall be not less than $50 per month upon retirement after thirty years of service and after attaining the age of sixty years, and provided further that as to any member with fifteen years or more of service at the compulsory retirement age of sixty-five, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than $50 per month. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied on full time service and compensation in the calculation of retirement allowances.

(C) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least ten years of service credited in the retirement system in the aggregate, computed as provided in subsection (G) hereof, shall be retired upon an allowance of one and one-half per cent of the average final compensation of said member, as defined in subsection (A) hereof for each year of credited service. if such retirement allowance exceeds one-third (⅓) of his average final compensation; otherwise one and one-half (1½) per cent of his average final compensation multiplied by the number of years of city-service which would be creditable to him were such city-service to continue until attainment by him of age sixty, but such retirement allowance shall not exceed one-third (⅓) of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the five (5) years immediately preceding his retirement. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors. and when so reduced shall be applied as full time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to servive in the position or classification he occupied at the time of his retirement.

(D) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workmen's compensation laws of the State of California.

(E) If a member shall die, before retirement, regardless of cause, a death benefit shall be paid to his estate or designated beneficiary consisting of the compensation earnable by him during the six months immediately preceding death, plus his contributions and interest credited thereon. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members.

(F) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and re-employment with and without re-deposits of withdrawn accumulated contributions of other members of the retirement system, provided that if such member is entitled to be credited with at least ten years of service, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. Upon the qualification of such member for retirement by reason of service and age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1⅔ per cent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid his estate or designated beneficiary.

(G) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service of a member under this section shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under this section, provided that the accumulated contribution standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his service in either of such departments at the compensation he received in such departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of section 161 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under section 165.

(H) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The rate of contribution of each member under this section shall be based on his nearest age at the effective date of his membership in the retirement system. The normal rate of contribution of each such member, to be effective from the effective date of membership under this section, shall be such as, on the average for such member, will provide, assuming service without interruption, under subsection (B) of this section, one-half of that portion of the service retirement allowance to which he would be entitled if retired at age sixty or higher age after rendering ten years of service for retirement under that subsection. No adjustment shall be included in said rates because of time during which members have contributed at different rates. Members' rates of contributions shall be changed only in the manner prescribed by the board of supervisors for changing contribution rates of other members.

(2) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rate of contribution to such compensation. Amounts which would have been deducted in the absence of the limit on such deductions according to service credited, shall be paid to the retirement system following the removal of such limit, in manners and at times approved by the retirement board. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in subsections (E) and (F) of this section, provided that the portion of the salaries of the teachers as provided in section 165, paragraph (a), as a basis for fixing the contributions to be made, and the benefits to be received, by the teachers under the retirement system shall be determined by the method provided in section 165, paragraph (a) and shall not be less than eighty per cent of the total salary received by the teachers, excluding that part of such portion which

exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

(3) Contributions based on time included in paragraphs (1) and (3) of subsection (G), and deducted prior to the effective date hereof, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(4) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, on the effective date hereof, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(5) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this subsection (H), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his rate of contribution is determined in paragraph (1), subsection (H), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this section, said percentage to be the ratio of the value of the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter

to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(6) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

(I) Upon the completion of the years of service set forth in subsection (B) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said subsection (B), and nothing shall deprive said member of said right.

(J) No person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Should any such retired person engage in gainful occupation prior to attaining the age of sixty years, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed his compensation at the time of his retirement.

(K) Any section or part of any section in this charter, insofar as it should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1947; amended, 1948*] members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 168.1, said percentage to be the ratio of the value on July 1, 1945, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said systems are included. Nothing in this section shall affect the obligation of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county. [*New section, 1949*]

SECTION 168.1.11. Upon the completion of the years of service set forth in section 168.1.2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said section 168.1.2, and nothing shall deprive said member of said right. [*New section, 1949*]

SECTION 168.1.12. No person retired as a member under section 168.1 after June 30, 1945, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Notwithstanding any provision in this charter to the contrary, should any such retired person engage in a gainful occupation prior to attaining the age of sixty, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the amount of the compensation earnable at the time he engages in the gainful occupation, by the member if he then held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired, immediately prior to its abolition. [*New section, 1949*]

SECTION 168.1.13. Any section or part of any section in this charter, insofar as it should conflict with these sections 168.1, 168.1.1, 168.1.2, 168.1.3, 168.1.4, 168.1.5, 168.1.6, 168.1.7, 168.1.8, 168.1.9, 168.1.10, 168.1.11, 168.1.12, 168.1.13 or 168.1.14, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1949*]

SECTION 168.1.14. The amendment of section 168.1, and sections 168.1.1, 168.1.2, 168.1.3, 168.1.4, 168.1.5, 168.1.6, 168.1.7, 168.1.8, 168.1.9, 168.1.10, 168.1.11, 168.1.12, 168.1.13, and 168.1.14, contained in the proposition therefor submitted to the electorate on November 2, 1948, shall take effect on the first day of July, 1949. [*New section, 1949*]

Physical Disability.—Under a charter provision (Long Beach Charter, § 187(3)) for a retirement pension when a member of the police or fire department shall become physically disabled or by reason of bodily injuries received in, or by reason of sickness caused by the discharge of duties or shall become so physically or mentally disabled as the result of injury or sickness as to render necessary his retirement from active service, it is not necessary that the member to become eligible for retirement be or become permanently disabled, nor that the injuries received be of such character at the time they were received as to render necessary retirement. **Tyra v. Board of Police & Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

Effect of Resignation.—When the right of a police officer to a pension becomes vested by the happening of the contingency on which the pension becomes payable, his right is not defeated by his resignation. Nor is his right affected by the fact that his certificate of disability and medical reports are filed after such resignation where as to such certificate and reports the charter merely requires that they be filed prior to the granting of a pension. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, construing Long Beach Charter.

Under a charter providing for a pension "whenever any member [of the police department] shall become physically disabled" (Long Beach Charter, § 187(3)), the pension right becomes vested at least on the happening of the contingency on which the pension becomes payable, and is not forfeited by resignation before filing of the required certificates. **Holt v. Board of Police & Fire Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, under the Long Beach Charter.

A police officer's designation of his daughter "as executrix of my will" as beneficiary of his death benefit certificate in the Widows' and Orphans' Aid Association is sufficient evidence to support a court's finding that the daughter takes in her character as executrix, with the result that she must list the benefit as an asset of the estate. **Reade Estate** (1948) 31 Cal. (2d) 669, 191 Pac. (2d) 745.

Workmen's Compensation.—The pension provision of a city charter (Long Beach Charter, § 188) to the effect that it is intended to be in lieu of and take the place of the Workmen's Compensation Act, and that a person applying a pension waives all provisions of such act, does not apply to the converse situation, and one applying for workman's compensation does not on that account waive his right to a pension. **Larson v. Board of Police & Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 60, 162 Pac. (2d) 33.

Where under a charter the acceptance of workman's compensation does not constitute a waiver of pension rights, the acceptance of such compensation does not effect a pro tanto reduction of pension benefits. **Holt v. Board of Police & Fire Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, under the Long Beach Charter.

Under a charter providing that the provision for police pension is intended to be in lieu of the Workmen's Compensation Act, but not providing that the Workmen's Compensation Act is to be in lieu of and in place of pension provisions, one's acceptance of workman's compensation does not constitute a waiver of his pension rights and does not work a reduction pro tanto of his pension benefits. **Holt v. Board of Police and Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, construing Long Beach Charter.

Mandamus.—On refusal of a pension board to acknowledge a widow's right to a pension, she may bring an action of mandamus to review the board's decision and to establish her status as a pensioner as a matter of law. **Dillon v. Board of Pension Commissioners of Los Angeles** (1941) 18 Cal. (2d) 427, 116 Pac. (2d) 37, 136 A.L.R. 800.

Statute of Limitations.—Under a charter provision requiring a civil service commission to order payment of a pension whenever a member of a department should become so physically or mentally disabled as the result of injury as to render his retirement necessary (Long Beach Charter, § 187(3), the duty of the commission does not attach and the right to a pension does not accrue, until it determines the result of the injury, the condition of the employee and the necessity for retirement; and in the absence of a provision limiting the time with relation to any event within which the employee must file his request, the statute of limitations does not commence to run until the commission makes such determination or arbitrarily refuses to act. **Tyra v. Board of Police and Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710.

The fact that a city as a self-insurer under the Workmen's Compensation Act voluntarily paid an employee compensation thereunder does not establish that his injuries were such as to render necessary his retirement, within the meaning of a charter pension provision, so as to start the statute of limitations running. **Tyra v. Board of Police & Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

Where under a charter the right to a retirement pension does not accrue until a determination by the commission of the effects of an injury, the limitation period is not commenced by the mere filing of the required certificates which are merely the necessary evidentiary justification for action by the commission. **Tyra v. Board of Police and Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710, under Long Beach Charter.

A finding of the Industrial Accident Commission, made more than five years after the happening of an accident, that the injuries suffered by the employee "eventually resulted in a permanent disability of 100%" does not establish when his injuries became such as to render necessary his retirement. **Tyra v. Board of Police & Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

The cause of action to establish the right of a policeman's widow to a pension accrues to her at the time of the death of her husband, and the statute of limitations is a bar to an action of mandamus brought for such purpose after the denial of her claim if it is not instituted within three years after the death of her husband, exclusive of the period of the pension board's deliberations. (Code Civ. Proc. §§ 312, 338.) **Dillon v. Board of Pension Commissioners of Los Angeles** (1941) 18 Cal. (2d) 427, 116 Pac. (2d) 37, 136 A. L. R. 800.

Estoppel to Assert Statute of Limitations.—A city pension board is estopped from interposing the statute of limitations as a bar to a proceeding to order retirement of an employee on a pension when the employee's delay in proceeding was induced by the erroneous position of the commission, amounting to a departmental ruling, that he was not entitled to a pension so long as he received workmen's compensation. **Tyra v. Board of Police & Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710, under the Long Beach Charter.

Section 168.2. No section for this number.

Pension Provisions—Dependents of Members of Fire and Police Departments Killed in Line of Duty

SECTION 168.3. If a member of the fire or police departments, as defined in the charter for the purposes of the retirement system, or a member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fireboats, marine engineer of fireboats, or marine fireman of fireboats, all of whom are hereinafter designated as members, shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a monthly allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death, and if he had retired prior to death, the allowance payable shall be equal to the retirement allowance of the member. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

Benefits provided under this section shall be in lieu of all benefits payable under other sections of the charter upon death of such member resulting from an injury received in, or illness caused by the performance of duty, except the five hundred dollar benefit payable upon death after retirement.

Contributions to provide the allowance under this section shall be made to the San Francisco City and County Employees' Retirement System by the city and county. The amount of the contribution shall be determined and payment to the system shall be made in the same manner as contributions are determined and paid which are required for other benefits provided under the retirement system for the respective groups of members who are included under this section.

Notwithstanding any other provisions of this charter, any member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fire boats, marine engineer of fire boats, or marine firemen of fire boats, who becomes incapacitated for performance of his duty by reason of any bodily injury received in or illness caused by the performance of his duty, shall receive the same benefits as members of the fire department who are members of the retirement system under section 171 of the charter. [*New section, 1947*]

169 governing the payment of pensions granted because of disability incurred in the performance of duty, including the payment of such pension to widows, children and parents of deceased members who had been retired because of such disability. Such pensions shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children, or parents.

The supervisors shall appropriate to the retirement system not to exceed the sum of five thousand dollars ($5,000) a year for the relief of aged, indigent and infirm exempt firemen who served in the Volunteer Fire Department between the years 1850 and 1866.

The pension rights of one who retired as a lieutenant in the fire department after the present Charter went into effect are governed by the provisions of such Charter even though the old Charter was in effect at the time he was employed as captain in the department. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

A pension right of a member of the fire department employed while the old Charter was in effect, which had not accrued, did not so enter into his contract of employment as to become a vested right of which he could not be deprived by subsequent enactment of a different provision in the new Charter. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

Jordan v. Retirement Board, see § 169.

Future Members of Fire Department

Section 171. Persons who become members of the fire department after the 8th day of January, 1932, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in sections 158 to 164, both inclusive, of this charter. No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of fifty-five years and completed twenty years of continuous service, except that retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below fifty-five, in accordance with the tables recommended by the actuary and approved by said retirement board.

SECTION 171.1. Members of fire department, as defined in section 171.1.1 who are members of the retirement system under sections 165, 165.2 or 171 of the charter on the effective date hereof, hereby designated as the first day of July, 1949, and persons who become members of said department after said effective date, shall be members of the retirement system under this section 171.1 on and after said date, and shall be subject to the following provisions of section 171.1 and sections 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13, 171.1.14 (which shall apply only to members under section 171.1 unless otherwise indicated) in addition to the provisions contained in sections 158 to 161, both inclusive, of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under sections 165 or 165.2 of the charter on said effective date, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof, of being members of the system under sections 165 or 165.2 instead of section 171.1, the election under said option to be effective on said effective date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 161 of the charter, on the effective date of the amendment shall have the same option of electing to be members under sections 165 or 165.2, as the case may be, instead of section 171.1, until ninety days after their return to service in the fire department. On and after said date the persons who affirmatively exercise said option, shall continue to be members of the system under sections 165 or 165.2, respectively, and shall not be subject to any of the provisions of section 171.1. [*New section, 1949*]

SECTION 171.1.1. The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

''Compensation,'' as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

''Compensation earnable'' shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department he was in the rank or position first held by him in such department.

''Benefit'' shall include ''allowance,'' ''retirement allowance,'' ''death allowance'' and ''death benefit.''

''Final compensation'' shall mean the average monthly compensation earnable by a member during the three years immediately preceding his retirement, or death before retirement.

For the purpose of the retirement system and of this section, the terms ''member of the fire department,'' ''member of the department,'' or ''member'' shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under section 169 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on the effective date hereof, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed by members of the salvage corps in the fire department, or duties now performed under the titles of pilot of fireboats, marine engineer of fireboats, marine fireman, of fireboats, or hydrant-gateman. Any fire service performed by such a member of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

''Retirement system'' or ''system'' shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

''Retirement board'' shall mean ''retirement board'' as created in section 159 of the charter.

''Charter'' shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

''Interest'' shall mean interest at the rate adopted by the retirement board. [*New section, 1949*]

SECTION 171.1.2. Any member of the fire department who completes at least thirty years of service in the aggregate, regardless of age, or at least twenty-five years of service in the aggregate and attains the age of fifty-five years, said service to be computed under section 171.1.9, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-seven years during the twelve months ending June 30, 1949; the age of sixty-six years during the twelve months ending June 30, 1950, and thereafter, following the attainment of the age of sixty-five years. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in section 171.1.1, plus an allowance at the rate of one and two-thirds per cent of said final compensation, for each year of service rendered prior to attaining age sixty and after qualifying as to age and service for retirement. Any member may retire, regardless of age, after rendering twenty-five years of service in the aggregate, computed under section 171.1.9, but in such event, his retirement allowance shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled at the date upon which he would qualify for retirement under the first sentence of this paragraph, deferred to that date. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 171.1.3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. [*New section, 1949*]

SECTION 171.1.3. Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired, and, if he is not qualified for service retirement shall receive a retirement allowance equal to seventy-five per cent compensation of said member, as defined in section 171.1.1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 171.1.2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 171.1.2, but not less than fifty per cent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentence, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 171.1.9, shall be retired upon an allowance of one and one-half per cent of the final compensation of said member as defined in section 171.1.1 for each year of service, provided that said allowance shall not be less than thirty-three and one-third per cent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement. [*New section, 1949*]

Section 171.1.4. If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under section 171.1 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death. [*New section, 1949*]

SECTION 171.1.5. Upon the death of a member after retirement for service or because of disability which resulted from injury received in, or illness caused by the performance of duty, and if death shall result from other cause than such injury or illness, one-half his retirement allowance shall be continued throughout life or until remarriage, to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which was incurred in performance of duty and which results in death, or if death does not result from such injury or illness, unless she was married to the member at least one year prior to retirement. Persons heretofore retired under section 171, shall be subject to the provisions of this section. [*New section, 1949*]

SECTION 171.1.6. That portion of any allowance payable because of the death or retirement of any member of said department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under said law of the State of California and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits. [*New section, 1949*]

SECTION 171.1.7. If a member of the fire department shall die, before retirement, from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 171.1.4 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, the sum of five hundred dollars shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members. [*New section, 1949*]

Section 171.1.8. Should any member of the department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 171.1.9, to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the fire department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be, to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the fire department, and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues. [*New section, 1949*]

Section 171.1.9. The following time shall be included in the computation of the service to be credited to the member for the purposes of determining whether such member qualifies for retirement, and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(1) Time during and for which said member is entitled to re-

ceive compensation because of services as a member of the fire or police department.

(2) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to the effective date hereof, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under section 171.1.3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after the effective date hereof, and receives compensation because of services rendered in other offices and departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 161 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account. [*New section, 1949*]

SECTION 171.1.10. All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution of each member under this section shall be based on his age taken to the next lower complete quarter year, (a) at the earlier of the dates he became a member under section 165, 165.2 or 171, in the case of persons who are members under these sections, or (b) on his age at the date he becomes a member under section 171.1 in the case of persons who become members on or after the effective date of this amendment, without credit for service counted under section 171.1.9. The age of entrance into the fire department shall be determined by deducting the member's service credited under section 171.1.9 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence

next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 171.1, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 171.1.2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed ten per cent.

(2) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under section 171.1.2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 171.1.5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between ten per cent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the

retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in sections 171.1.7, 171.1.8 and 171.1.9.

(4) Contributions based on time included in paragraphs (1), (2), and (3) of section 171.1.9, and deducted prior to the effective date thereof, from compensation of persons who become members under section 171.1, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(6) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 171.1.10, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1) section 171.1.10, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total com-

pensation paid during said year, to persons who are members under section 171.1, said percentage to be the ratio of the value on the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county. [*New section, 1949*]

SECTION 171.1.11. Upon the completion of the years of service set forth in section 171.1.2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said section 171.1.2, and nothing shall deprive said member of said right. [*New section, 1949*]

SECTION 171.1.12. No person retired as a member under section 171.1 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Notwithstanding any provision in this charter to the contrary, should any such retired person engage in a gainful occupation prior to attaining the age of sixty, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the amount of the compensation earnable at the time he engages in the gainful occupation, by the member if he then held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired, immediately prior to its abolition. [*New section, 1949*]

Section 171.1.13. Any section or part of any section in this charter, insofar as it should conflict with these sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13 or 171.1.14, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1949*]

Section 171.1.14. Sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13, and 171.1.14, contained in the proposition therefor submitted to the electorate on November 2, 1948, shall take effect on the first day of July, 1949. [*New section, 1949*]

Compensation Insurance Payments

SECTION 172. The benefit provisions of the workmen's compensation insurance and safety law of the State of California, as they affect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be re-insured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 35 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special police officer shall receive the benefits of such compensation law from any other source. [*Amended, 1937*]

A patrol special police officer appointed pursuant to § 35.10 is an employee of San Francisco within § 172, and the evidence supported a finding that his fatal injury arose out of and in the course of employment by the City where it appeared that he was apparently engaged in attempting to prevent the commission of a crime or to apprehend a criminal when he was killed. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207.

The evidence supported a finding that a special patrol officer was fatally injured in the course of his employment by the City where it appeared that he was fatally injured while en route from the scene of an emergency policing assignment to his routine duties. **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

THIRD SUPPLEMENT TO 1948 EDITION OF CHARTER

This supplement contains:

1. History of Charter Legislation.
2. New and amended Charter sections.
3. Supplemental Index and Table of Deletions.
4. Supplemental Digest.

SUGGESTIONS FOR USE

In the front of the book substitute the new "History of Charter Legislation" for the one presently contained therein.

Remove all of the Charter sections, or parts thereof, superseded y the Charter sections contained in this envelope and, if it is desired to etain such superseded sections, place them at the back of the book ehind the division sheet entitled "Superseded Sections".

In the back of the book, behind each subject division sheet, ubstitute new "Supplemental Index" and "Supplemental Digest" for hose presently contained therein.

John R. McGrath
Clerk of the Board of Supervisors

January, 1943, shall not expire at twelve o'clock noon on said date, but shall continue until the 8th day of January, 1944, and the office of assessor shall be filled at the general municipal election in 1943, for a three year term from said date, and said office of assessor shall again be filled at the general election in 1946 for a four year term from said date, and at the general election in each fourth year thereafter. [*Amended, 1941*]

Officers formerly elective and now appointive as within civil service, see § 62.

Absence from State, and Vacancies

SECTION 6. No officer of the city and county, except members of the police department acting under orders of the chief thereof, shall absent himself from the state, except by permission of the mayor and the board of supervisors. Violation of this section shall be sufficient cause for removal of any officer violating the same.

An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a crime involving moral turpitude, or of an offense involving a violation of his official duties, or is removed from office, or ceases to be a resident of the city and county, or neglects to qualify within the time prescribed by law, or within twenty days after his election or appointment, or shall have been absent from the state without leave for more than sixty consecutive days.

Qualifications of Officers and Employees

SECTION 7. No person shall be a candidate for any elective office, nor shall be appointed as a member of any board or commission or as an officer of the city and county unless he shall have been a resident of the city and county for a period of at least five years and an elector thereof for at least one year immediately prior to the time of his taking office, unless otherwise specifically provided in this charter. All employees of the city and county shall be citizens and shall have been residents thereof, for at least one year prior to the appointment, unless otherwise spcifically provided in this charter, and members of the fire and police departments shall be citizens and shall have been residents of the city and county for at least five years next preceding appointment, and every elected officer, member of any board or commission and employee, including members of the fire and police departments, shall continue to be a resident of the city and county during incumbency of office or employment, and upon ceasing to be such resident, shall be removed from such office or employment; provided that where competent citizens who are residents of the city and county cannot be secured to fill positions outside of the city and county, then non-resident citizens may be appointed to fill such positions; and provided, also, that positions requiring expert or technical training may, on the recommendation of the department head and the mayor, and with the approval of the civil service commission and the board of supervisors, be exempted from the requirements of this section. A "resident" within the intent and purpose of this section, means one who actually lives within the city and county and maintains an abode therein, where such resident with his family, if any, customarily spends the night, provided, however, that residence outside the confines of the city and county for a period not to exceed three months in any calendar year, or absence of a resident from the city and county upon any bona fide journey, whether for business or pleasure and for whatever length of time, or absence of a resident while in the performance of any duties as an elected or appointed official or employee of the State of California or the government of the United States, shall not be within the contemplation of this section; provided, however, that any officer or employee of the city and county may live outside the City and County of San Francisco upon the authorization of the director of health, filed in the office of the civil service commission, and granted on account of the ill health of said officer or employee or the ill health of a member of the immediate family of said officer or employee. [*Amended, 1933*]

Both civil service and non civil service employees are included in the requirements of this section as to citizenship and one year's residence. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

This section has reference to appointees, not to examinees, and so an applicant for civil service examination may not successfully invoke its provisions to justify his failure to comply with the residential requirement of § 144 of the Charter. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

School teachers and employees of the school department are not included in the requirements as to residence laid down in this section for the employees of the City and County of San Francisco. **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

Bonds of Officers and Employees

SECTION 8. Unless otherwise provided in this charter, such officers and employees as may be specified by ordinance, shall give bond in such amounts as may be required by the ordinance, provided that the minimum amount of the bond to be furnished by the controller be $100,000; by the tax collector $100,000; by the county clerk $50,000, and by the public administrator $50,000. The board of supervisors shall provide by ordinance the terms, form and conditions of all such bonds and for the filing thereof. The sureties on such bonds shall be such as specified by and approved in the manner provided by ordinance. The board of supervisors may, by ordinance, provide for group bonding of officers and employees. The premiums on all official bonds shall be paid by the city and county. [*Amended, 1946*]

Powers Vested in Board of Supervisors

SECTION 9. The powers of the city and county, except the powers reserved to the people or delegated to other officials, boards or commissions by this charter, shall be vested in the board of supervisors and shall be exercised as provided in this charter. The board of supervisors shall, ex officio, be the board of equalization for the city and county. It shall be the duty of the board of supervisors to canvass the vote cast at each election in the city and county, and certify the official count of such balloting. The supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the city and county and shall fix rates and schedules of compensation therefor in the manner provided in this charter. On the recommendation of the mayor and the chief administrative officer, the board of supervisors may create or abolish departments which are now or may hereafter be placed under the chief administrative officer or under commissions appointed by the mayor.

The board of supervisors may, by ordinance, confer on any officer, board or commission such other and additional powers as the board may deem advisable.

The board of supervisors, by ordinance, may provide medical care, hospitalization, compensation and such other benefits as the board may deem necessary for regularly authorized volunteer civilian defense workers suffering injury arising out of and in the course of their activities as such civilian defense workers.

Whenever the board of supervisors by ordinance shall declare that the public interest demand a night university, municipally established, maintained and controlled, they shall submit the proposal to the people, and if approved by a majority of the electors voting thereon, the board of supervisors may by ordinance provide for the establishment, maintenance and control of such a night university having courses of instruction in advance of the instruction maintained in high schools or junior colleges. Said university shall have the power to grant academic degrees and shall be open to any resident of the city and county qualified to enter and pursue the courses of instruction therein given. [*Amended, 1943*]

A contract for services of a civil engineer for a 5-year period to furnish information respecting transit and traffic conditions does not provide an invalid duplication of functions and duties of existing officers. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

The Charter imposes no limitation on the powers of the Supervisors to plan, study and legislate for civic betterment and improved conditions of municipal affairs. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Only those powers of the city which are not reserved to the people or delegated to other officials, boards or commissions, are vested in the Board of Supervisors, to be exercised as provided in the Charter. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Quoted in **King v. Leavy** (1932) 124 Cal. App. 422, 427, 12 Pac. (2d) 661.

Number, Compensation and Meetings of Supervisors

SECTION 10. The board of supervisors shall consist of eleven members elected at large, provided that for the period January 8, 1932, to January 8, 1934, the board shall consist of fifteen members. Each member of the board shall be paid a salary of twenty-four hundred dollars ($2,400) per year, and each shall execute an official bond to the city and county in the sum of five thousand dollars ($5,000).

At twelve o'clock noon on the 8th day of January next following their election, the newly elected and continuing members of the board of supervisors shall meet at the legislative chamber in the City Hall, and thereafter regular meetings shall be held as fixed by resolution. The supervisors constituting the new board shall, on January 8, 1932, and every second year thereafter, elect one of their number as president of the board for a two-year term. The president shall preside at all meetings, shall appoint all standing and special committees of the board and shall have such other powers and duties as the supervisors may provide.

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place. The board shall cause a calendar of the business scheduled for each meeting to be published and shall keep and publish a journal of its proceedings. Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

Suspension and Removal

Section 11. Any elective officer, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service, recreation and park, and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part. [*Amended, 1935; 1949(2). See Sec. 11, Art. VI of the Constitution*]

In a taxpayer's suit to restrain the use of the exposition auditorium for boxing and wrestling matches, the court found it unnecessary to pass upon the issue as to whether the agreement permitting such use of the auditorium was void for lack of compliance with the method prescribed by the Charter, but concluded that the staging of boxing and wrestling matches and other sports could not be held contrary to the public welfare as a matter of law. **Lynch v. San Francisco** (1935) 3 Cal. (2d) 141, 43 Pac. (2d) 538.

An applicant for a license may appeal to the Board of Permit Appeals if he is a victim of unjust discrimination. **People v. Galena** (1937) 24 Cal. App (2d) (Supp.) 770, 780, 70 Pac. (2d) 724.

Section 35.3. The chief of police may detail from time to time members of the department for performance of duty in the bureau of inspectors who shall be known as assistant inspectors, and who may be removed from such detail by order of the chief of police. An appointment as inspector shall not be subject to competitive examination, but in case of vacancy in said rank of inspector, the appointment shall be made by the chief of police from among those assistant inspectors who have been detailed to, and who have actually served with the bureau of inspectors for at least two years prior to such appointment. Inspectors and assistant inspectors shall have the same rights as other members of the department to take competitive examinations from their respective civil service ranks. An inspector guilty of any offense or violation of the rules and regulations of the police department shall be subject to punishment as provided in section 155 of this charter; provided, however, that in addition to the punishments set forth in section 155, an inspector may be demoted to his civil service rank for any offense or violation set forth in said section and after trial and hearing before the police commission as set forth therein. The chief of police, in addition to the inspectors above provided for, shall detail any member of the department to serve as inspector of school traffic patrols who shall have the rank and pay of inspector, subject to the provisions of this section. [*New section, 1943; amended, 1948*]

Section 35.4. Subject to the provisions of section 20 of this charter governing the appointment and removal of non-civil service appointees, and without competitive examination, the chief of police shall have power to appoint a police surgeon; to designate a deputy chief of police, a department secretary, and a director, bureau of special services, from any rank in the department; to designate a director of traffic from among the members of the police department holding rank of lieutenant or higher; to designate a chief of inspectors from among the members of the department holding the rank of captain; to designate a director, bureau of criminal information, from among the members of the department having the rank of sergeant or higher; to designate from among the members of the department holding rank of lieutenant or higher, a captain of inspectors, who shall be administrative assistant to the chief of inspectors, a captain of traffic, and a director, bureau of personnel; and to designate a supervising captain of districts from among the members of the department holding the rank of captain. The department secretary or other suitable member of the department shall be assigned by the chief of police to serve also as secretary to the police commission without extra compensation. The chief of police shall assign a property clerk from among the members of the department, such assignment shall be made at the rank and pay of the member so assigned.

When any member of the department, detailed to any of the positions above mentioned, shall be removed from said detail or position, he shall be returned to his civil service rank and position, unless removed from the department pursuant to the provisions of section 155 of the charter.

To assist the director of traffic, an engineer shall be assigned by the chief administrative officer from the office of the city engineer to the bureau of traffic engineering and administration, and such other personnel shall be provided as may be necessary, in accordance with civil service, fiscal and other requirements of the charter, all of whom shall be paid the salaries of their respective ranks or classifications. [*New section, 1943; amended, 1949*]

SECTION 35.5. The police force of the city and county shall not exceed one police officer for each five hundred inhabitants thereof. The annual compensations for the several ranks in the department shall be as follows: chief of police, $10,680; deputy chief of police, director of traffic and chief of inspectors, $8,940; supervising captain of districts and department secretary, $7,200; captain of inspectors and captain of traffic, $6,540; director of bureau of personnel and director of bureau of criminal information, $6,180; captains and criminologist, $6,060; lieutenants and director of bureau of special services, $4,800; inspectors, $4,440; sergeants, $4,320; photographer, $4,140; police surgeon, $3,780; police officers, police patrol drivers and women protective officers, for first year of service, $3,420; for second year of service, $3,540; for third year of service, $3,660; for fourth year of service and thereafter, $3,780.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensations as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

Any member assigned to two-wheel motorcycle traffic duty shall receive $15 per month in addition to the compensation to which he would otherwise be entitled. [*New section, 1943; amended, 1946; 1947; 1948; 1949*]

SECTION 35.5½. (a) The word "member" or "members" as used in this section shall mean the members of the several ranks in the police department set forth in section 35.5 of this charter.

(b) The basic week of service for each member shall be forty hours and the annual compensation set forth in section 35.5 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the police commission public interest or necessity requires the services of any member to serve in excess of the basic week of service during any week, the said police commission may authorize the chief of police to permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this sub-section. For service performed in excess of the basic week, members shall be compensated on the basis of straight time in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in section 35.5, or in lieu thereof equivalent time off duty with pay.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in section 151 of this charter, or the normal days off per week; provided, however, that when in the judgment of the police commission public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the said commission may authorize the chief of police to permit said member to serve during said vacation, or part thereof, or normal days off, and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of straight time in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensations provided therefor in section 35.5.

(f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part 1, of the San Francisco Municipal Code, approving rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignments, prior to going on duty, the said commission may designate a period not to exceed fifteen minutes in any one day for said reporting, and the said periods of fifteen minutes need not be compensated for in money or in time off with pay.

(h) Notwithstanding the provisions of any of the foregoing subsections, the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the board of supervisors pursuant to the provisions of section 151 of the charter as additional days off with pay. Members required to perform police service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of the police commission.

(i) This section shall become effective on the first day of the month immediately following the date of ratification. [*New section, 1944; amended, 1947; 1948; 1949*]

SECTION 35.6. The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place

DEPARTMENTS UNDER MAYOR

(Continued)

Fire Department

SECTION 36. The fire department shall be under the management of a fire commission, consisting of three members, who shall be appointed by the mayor and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock noon on the 15th day of January in the years 1944, 1945 and 1946, respectively.

The fire commission shall appoint a chief of department, a secretary and a department physician who shall hold office at its pleasure.

The fire commissioners shall be successors in office of the fire commissioners holding office in the city and county at the time this charter shall go into effect, and shall have all the powers and duties thereof, except as in this charter otherwise provided. The commissioners shall have power, upon recommendation of the chief of department, to send fire boats, apparatus and men outside the City and County of San Francisco for fire-fighting purposes.

Positions of officers and employees of the fire department legally authorized shall continue, and the incumbents therein legally appointed thereto shall continue as the officers and employees of the department under the conditions governing their respective appointments, and except as in this charter otherwise provided.

The annual compensation for the several ranks in the fire department shall be as follows: chief of department, $10,680; first assistant and second assistant chiefs of department, $7,200; battalion chiefs, $6,180; captains, $4,800; lieutenants, $4,440; engineers, $4,140; chief's operators, $4,140; drivers, stokers, tillermen, truckmen and hosemen, for first year of service, $3,420; for second year of service, $3,540; for third year of service, $3,660; for fourth year of service and thereafter, $3,780; pilots of fire boats and marine engineers of fire boats, $4,800; firemen of fire boats, $3,840.

Except as to members of marine crews of fire boats, each period of twenty-four hours shall be divided into two tours of duty, to wit: from eight o'clock A. M. to six o'clock P. M., and from six o'clock P. M. to eight o'clock A. M. The uniformed force of the fire department shall be divided into two platoons, the officers and members assigned to which shall alternate on the tours of duty at intervals of not more than one week. No officer or member, including pilots, marine engineers and firemen of fire boats, shall be required to work more than one hundred and thirty (130) hours in any fifteen-day period, nor shall any officer or member be required to work more than fourteen consecutive hours except in case of a conflagration requiring the services of more than one-half of the force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 130 hours in any fifteen day period. Each officer and each member shall be entitled to at least one (1) day off duty during each week.

On the recommendation of the chief of department, the commission may reward any member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The chief of department, or in his absence any assistant chief of department, or in their absence any battalion chief in charge, may, during a conflagration, cause to be cut down or otherwise removed any buildings or structures for the purpose of checking the progress of such conflagration.

In determining years of service necessary for a driver, stoker, tillerman, truckman and hoseman to receive the annual compensation sum of $3,540, $3,660, and $3,780, respectively, as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any officer or member of the fire department on military leave of absence, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

This section shall become effective on the 1st day of July, 1948, provided the same is ratified prior to said date by the Legislature of the State of California. If not ratified prior to said date, this section shall become effective on the 1st day of the month immediately following the date of ratification. [*Amended, 1940; 1943; 1946; 1947; 1948*]

The fact that the Board of Supervisors deemed it advisable to submit amendments to § 35 and § 36 jointly as a single proposition on the ballot in 1943, did not convert them into a single amendment and give rise to a patent ambiguity by virtue of the different language with reference to the effective dates of the amendments. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

The 1943 amendment providing that it should become effective when the joint legislative resolution was filed, and the increased salaries should be payable only when the proper appropriation had been made, was not subject to the construction that the increase should start on the filing of the joint resolution with the Secretary of State, but that the actual payment should be delayed until the necessary appropriation was made. The pay raise did not commence until the Board of Supervisors made the necessary appropriation. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

SECTION 36.1. (a) The tours of duty provided for in section 36 of this charter and the length thereof, and the platoon system provided for in said section for the officers and members of the uniformed ranks shall continue as now set forth in said section.

(b) Each member of the uniformed force shall be entitled to at least one (1) day off in each seven (7) and such additional days or time off as may be approved by the fire commission.

(c) When, in the judgment of the fire commission, it is in the public interest that any member of the uniformed force of said fire department should work on his day off and said member consents to so work, he may at the direction of the chief engineer of the department work on said day off, and in addition to the regular compensation provided for said member as set forth in section 36 of this charter, said member shall be entitled to be compensated at his regular rate of pay as provided for in section 36 for said extra time served.

(d) Each member of the uniformed force of the fire department shall be entitled to a vacation period of two (2) weeks as provided for in section 151 of this charter, provided, however, that if in the judgment of the fire commission it is in the public interest that any member of the said department should continue his service to the department during his vacation period, and said member consents to continue his said service, the chief engineer of the department may permit said member to continue such service, and said member shall in addition to his annual vacation pay, be paid additional compensation for said vacation period, which said compensation shall be equal to the vacation pay allowed to said member of the department.

(e) Salary warrants for extra time served by officers and members of the uniformed force of the department shall be payable from the regular salary appropriation of said uniformed force for the prevailing fiscal year, and at no time shall extra compensation be authorized or paid in amounts exceeding the available unencumbered balance in said appropriation.

(f) Nothing in this section contained shall in any way interfere with the sick or disability leave provided for in Section 301, Part I, of the San Francisco Municipal Code.

(g) This section shall be effective on the first day of July, if the same is ratified prior thereto by the Legislature of the State of California, and if not so ratified shall be effective within fifteen (15) days after the date of its ratification.

(h) The provisions of this section shall continue in force for a period of six (6) months after the termination of the present war between the United States and the axis powers. [*New section, 1944*]

SECTION 36.1½. Subject to the provisions of section 20 of the charter governing the appointment and removal of non-civil service officers, assistants and employees, and without competititve examination, the chief of the fire department shall have the power to appoint, from among the members of the department having the rank of first or second assistant chief of department, a deputy chief of department and, from among the members of the department having the rank of battalion chief, a secretary to the chief of department. The annual compensation of the rank of deputy chief of department shall be $8,940.00 and that of the rank of secretary shall be $6,980.00.

This section shall become effective on the first day of the month following that in which the joint legislative resolution approving the same is filed with the secretary of state. [*New section, 1948*]

SECTION 36.2. [*New section, 1944; repealed, 1946*]

Fire Marshal

SECTION 37. The chief of the fire department, with the approval of the fire commission, may appoint a fire marshal and assistants on the recommendation of the Underwriters Fire Patrol of San Francisco, to serve without compensation from the city and county. The board of supervisors may empower the fire marshal to sell property saved or salvaged from any fire and for which no owner can be found. The fire marshal may call upon police officers to assist in the protection or salvaging of property and shall have such other powers and duties as by ordinance may be prescribed relative to the protection of property at fires and the storage of property salvaged therefrom. He shall have such duties appertaining to the enforcement of laws relative to the storage, sale and use of oils, combustible materials and explosives as the fire commission by rule, or the supervisors by ordinance, may prescribe.

Fire Prevention

SECTION 38. The bureau of fire prevention and public safety under the jurisdiction of the fire commission is hereby established. The commission shall detail to said bureau from the uniformed force of the department an officer to have charge of said bureau and such other personnel as it may deem necessary, who shall be paid the salary or salaries for their respective ranks in the fire department. The bureau shall inspect all structures and premises to determine whether or not compliance is being had with statutes and ordinances relative to fire prevention, fire protection and fire-spread control, and the protection of persons and property from fire. It shall enforce said statutes and ordinances and shall report violations to departments having jurisdiction.

The bureau shall examine the application, plans and specifications for the erection, and for alterations or repairs estimated to exceed $1,000 in cost, of any structure or premises subject to the statutes and ordinances referred to in this section. The bureau shall by written report, filed with the superintendent of building inspection, approve such plans and specifications, or report to said superintendent the particulars wherein non-compliance exists, and upon modification of the application, plans and specifications to comply therewith, the bureau shall inform said superintendent of its approval. No permit for alteration or repair exceeding $1,000 in cost, or for erection, shall be issued unless said approval is given.

The fire commission, relative to permits subject to issuance or revocation by the chief engineer of the fire department, shall, by regulation, prescribe such duties of the bureau of fire prevention as it shall deem appropriate. Any structure or premises wherein there exists any violation of statutes and ordinances referred to in this section, or which is maintained or used in such manner as to endanger persons or property by hazard of fire, explosion or panic and any structure or premises hereafter constructed, altered or repaired in violation of said statutes and ordinances is hereby declared to be a public nuisance, and it shall be the duty of the bureau to prosecute abatement proceedings.

An appeal and advisory board is hereby created, consisting of the chief engineer of the fire department, who shall be the chairman, the fire marshal, and the heads of the bureau of building inspection and the department of electricity, and a lay member to be appointed by the mayor for a four-year term. Said board shall serve without compensation.

An appeal may be taken from any act, determination or order of the bureau, performed under this section, by filing a written appeal with the appeal and advisory board.

Pending action on such appeal any construction, alteration or repair, embraced therein, may proceed if a building permit therefor has been issued, but no such permit may be issued while action on an appeal is pending. No certificate of completion or occupancy shall be issued by any officer or employee until said appeal has been determined. The advisory and appeal board may affirm, reverse or modify the act and determination of the bureau. If the appeal is determined adversely to the appellant, said structure or premises shall be made to comply with such decision. It shall require four votes of the board to reverse or modify the act, order or determination for the bureau.

Salvage Corps

SECTION 38.1. There is hereby created in the San Francisco fire department a division to be known as the salvage corps.

The duties of said salvage corps shall be the protection of property, during the period of any fire and immediately after said fire, from damage by smoke, water or flames. Said salvage corps shall be under the jurisdiction of the fire commission of the City and County of San Francisco. The personnel of said salvage corps shall not be transferred to any other branch or division of the fire department but shall at all times be subject to the orders of the chief engineer of the department in so far as actual service is concerned. The personnel of said salvage corps may be increased in accordance with the fiscal and budgetary procedure provided for in the charter, but members of any other branch or division of said fire department shall not be transferred to said salvage corps except after examination and certification as to eligibility by the civil service commission.

All persons employed in the uniformed force of the corporation known as the Underwriters' Fire Patrol of San Francisco, on the effective date of this amendment and who have been so employed for a period of six months next before the effective date of this amendment shall become members of said salvage corps and shall be deemed appointed as such in accordance with the civil service provisions of the charter and shall thereafter be entitled to all of the benefits thereof. Any person heretofore employed in the uniformed force of said Underwriters' Fire Patrol of San Francisco who has been granted a leave of absence for military purposes and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six months next before the granting of said leave of absence, shall, on the expiration of his said leave, become a member of said salvage corps and also shall be deemed appointed thereto pursuant to the civil service provisions of the charter and entitled to all of the benefits thereof.

All persons who, on the effective date of this amendment, shall be serving as officers in said uniformed force of said Underwriters' Fire Patrol of San Francisco and who have been so serving for a period of six months prior thereto, shall continue to occupy their respective official positions, with the exception that such persons as may be serving in the position of sergeant shall become lieutenants in said salvage corps and the position of sergeant shall no longer exist.

The officers and members of said salvage corps shall receive respectively the salaries provided for captains, lieutenants and hosemen provided by section 36 of the charter and for the purpose of determining the salaries of said hosemen, service rendered in the uniformed force of said Underwriters' Fire Patrol of San Francisco shall be deemed as service rendered in the service of the City and County of San Francisco.

Upon the actual taking over of the employees of said Underwriters' Fire Patrol of San Francisco, the members thereof coming into the employment of the City and County of San Francisco shall become members of the San Francisco city and county retirement system and shall be entitled to the benefits thereof and subject to the obligations thereof pursuant to the provisions of section 165 of the charter.

All employees hereafter added to said salvage corps, including officers appointed thereto, other than those who may have been serving in the uniformed forces of said Underwriters' Fire Patrol of San Francisco and continue in the service of the City and County of San Francisco pursuant to the provisions of this section, shall be appointed and hold their positions subject to the civil service provisions of the charter.

The tours of duty of the members of said salvage corps shall be the same as the tours of duty for other members of the uniformed force of the fire department as the same are set forth in section 36 of the charter.

The physical and age requirements for future applicants and members of the salvage corps shall be the same as those applicable to applicants for and regular members of equal rank in the San Francisco fire department.

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. [*New section, 1943*]

Salvage Corps—Military Leave Provisions

Section 38.2. Notwithstanding any other provisions of this charter, any person employed on July 1, 1943, in the uniformed force of said Underwriters Fire Patrol of San Francisco who was absent from his duties therein on account of military service and who had been so employed by said Underwriters Fire Patrol of San Francisco for a period of six (6) months next before July 1, 1943, is deemed a member of said salvage corps on July 1, 1943, on military leave from his position therein and is deemed appointed thereto on July 1, 1943, pursuant to the civil service provisions of the charter and entitled from said date to all of the benefits of such employment. [*New section, 1947*]

PURCHASING

(Continued)

Purchase, Lease and Sale of Real Property and Improvements

SECTION 91. The director of property shall be the head of the department of property. He shall have charge of the purchase of real property and improvements required for all city and county purposes, and the sale and lease of real property and improvements thereon owned by the city and county, except as otherwise provided by this charter. In the acquisition of property required for street opening, widening or other public improvements, the director of property shall make preliminary appraisals of the value of the property sought to be condemned or otherwise acquired, and report thereon to the responsible officer. It shall be his duty, in addition, to assist in such proceedings on the request of the responsible officer.

He shall have charge of the management of the exposition auditorium.

Each department authorized by the approval of bond issues or by annual or supplemental appropriation ordinances to purchase or lease property or improvements needed for the purposes of such department shall make such purchases or leases through the director of property. He shall make a preliminary valuation of the property to be acquired or leased and report the same to the department requiring such property. For such purposes he may employ independent appraisers. He shall conduct negotiations with the owner or owners thereof, at the conclusion of which he shall report the terms on which such sale or lease may be concluded, together with his recommendations thereon. The head of the department concerned may report to the board of supervisors and recommend acceptance or that proceedings in eminent domain be instituted for the acquisition of such property.

Sale of Property

SECTION 92. Any real property owned by the city and county, excepting lands for parks and squares, may be sold on the recommendation of the officer, board or commission in charge of the department responsible for the administration of such property. When the board of supervisors, by ordinance, may authorize such sale and determine that the public interest or necessity demands, or will not be inconvenienced by, such sale, the director of property shall make a preliminary appraisal of the value of such property. The director of property shall advertise by publication the time and place of such proposed sale. He shall forthwith report to the department head concerned and to the supervisors the amount of any and all tenders received by him. The supervisors may authorize the acceptance of the highest and best tender, or they may, by ordinance, direct that such property be sold at public auction, date of which shall be fixed in the ordinance. No sale other than a sale at public auction shall be authorized by the supervisors unless the sum offered shall be at least ninety per cent of the preliminary appraisal of such property hereinbefore referred to.

The proceeds of the sale of any property under the control of a department shall be applied by the supervisors to the purchase of additional land for the use of such department if required thereby. Otherwise such proceeds shall be applied to the purchase of additional real property for any city and county purpose, provided, however, that the proceeds of the sale of any property acquired for the use of any utility shall revert to the funds of said utility.

The director of property may, in lieu of sale, arrange for the trading of any real property proposed to be sold for other property required by the department in charge thereof, on the recommendation of the officer, board or commission in charge of such property and the authorization, by ordinance, of the board of supervisors.

Lease of City Property

Section 93. When the head of any department in charge of real property shall report to the board of supervisors that certain land is not required for the purposes of the department, the board of supervisors, by ordinance, may authorize the lease of such property. The director of property shall arrange for such lease for a period not to exceed twenty years, to the highest responsible bidder at the highest monthly rent.The director of property shall collect rents due under such lease.

The public utilities commission may provide, by resolution, that agricultural or other lands used and useful for water department purposes and at the same time available for leasing or rental for agricultural or other purposes shall be subject to lease and administration by the operating forces of the water department, and further, the public utilities commission may provide, by resolution, that lands now devoted to airport purposes or lands that may hereafter be acquired and devoted to airport purposes may be leased or rented for a period not to exceed forty years, and the director of property shall arrange for such lease to the highest responsible bidder at the highest monthly or annual rent, and thereafter the administration of any and all such leases shall be by the public utilities commission; provided, however, that no such lease shall be made to any other public utility without the approval of the board of supervisors by two-thirds vote thereof. [*Amended, 1946*]

Records of Real Property

SECTION 94. The director of property shall maintain complete records and maps of all real property owned by the city, which shall show the purchase price, if known, and the department in charge of each parcel, with reference to deeds or grants establishing the city's title.

He shall annually report to the mayor, the controller, the chief administrative officer, and the supervisors the estimated value of each parcel and improvement. He shall make recommendations to the mayor and chief administrative officer relative to the advantageous use, disposition, or sale of real property not in use.

before such additional credits were added, and he shall not be allowed such additional credits in any other promotive examinations. The civil service commission may, for services or employment specified by the commission, allow general or individual preference, but not less than ten per cent, for entrance appointment of veterans who have suffered permanent disability in line of duty, provided that such disability would not prevent the proper performance of the duties required under such service, or employment, and provided that such disability is of record in the United States Veterans' Bureau. [*Amended, 1940; 1948*]

Const. art. xi, § 8½ and art. xx, § 16, "had for their sole purpose the validation of civil service provisions in the Charter of San Francisco." **Cornell v. Harris** (1936) 15 Cal. App. (2d) 144, 59 Pac. (2d) 570, quoting opinion of Wilber, J. (later C. J.) in the superior court case of **Norton v. Evans.**

Civil service provisions of a charter have no application to employees of those who contract with the city. **Oakland v. Williams** (1940) 15 Cal. (2d) 542, 103 Pac. (2d) 168.

A contract with a civil engineer for his services over a 5-year period to aid in the solution of traffic and transit problems was not subject to the objection that it violated the Charter in ignoring the civil service and residential provisions. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Municipal court attachés are municipal employees who, as provided in Municipal Court Act, § 6 (see Stats. 1947, ch. 1113) are entitled to the benefits of the civil service provisions of the Charter. See **Slavich v. Walsh** (1947) 82 Cal. App. (2d) ...... (82 ACA 248, ... Pac. (2d) ......, rehearing denied.

Public employees have no vested right in any particular measure of compensation or benefits, and these may be modified or reduced by proper statutory authority. **Butterworth v. Boyd** (1938) 12 Cal. (2d) 140, 82 Pac. (2d) 434, 126 A. L. R. 838.

Eligible Lists.—After expiration of the civil service list of eligibles for a position by reason of the lapse of the period established by the section, no valid appointment to the position can be made therefrom. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926, citing **Mann v. Tracy** (1921) 185 Cal. 272, 196 Pac. 484; **Jensen v. Civil Service Commission** (1935) 4 Cal. (2d) 334, 49 Pac. (2d) 283.

The Civil Service Commission has no authority to set aside a list of eligible appointees which has been duly adopted in accordance with the provisions of the Charter, except as therein provided. **Cook v. Civil Service Commission** (1911) 160 Cal. 598, 117 Pac. 663, decided under old Charter.

Names of policemen placed on the eligible list under the old Charter could be removed by the commission under the new Charter where the names were on the list for over two years and, since the power of the commission to strike off names after two years was identical under both Charters, the commission did not give the new Charter a retroactive interpretation in thus striking the names. **Jensen v. Civil Service Commission** (1935) 4 Cal. (2d) 334, 49 Pac. (2d) 283.

Examinations.—It was not the intent of the Charter to have courts review the questions and answers of every person who voluntarily submitted for examination as to his qualifications and who had a competitive test that was devoid of prejudice, caprice and arbitrary action, practical in its character, given and determined in entire good faith by persons of a high degree of proficiency. **Mitchell v. McKevitt** (1932) 128 Cal. App. 458, 17 Pac. (2d) 789.

Mandamus will lie to give the proper place on an eligible list after the result of an examination is established, but the writ will not lie to review the decision of the Civil Service Commission as to the correctness of the answers given to questions. **Mitchell v. McKevitt** (1932) 128 Cal. App. 458, 17 Pac. (2d) 789.

A petition for a writ of mandamus to compel placing of petitioner's name as number one on an eligible list is insufficient where it merely alleges that the petitioner took an examination, was placed first on the tentative list, that the commission determined on the filing of a protest that he did not possess residence qualifications, and that the action of the commission was without right and in utter disregard of proofs adduced by the petitioner. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

Emergency measure creating position of police captain, see notes under § 16.

Limited Tenure Appointments

SECTION 145.1. When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under section 145 hereof, the civil service commission may qualify applicants for wartime appointments to entrance positions through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the civil service commission adopted pursuant thereto and the tests shall be adequate in the judgment of the civil service commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in section 145 hereof. Appointments made under the provisions of this section shall be designated ''limited tenure appointments'' and may continue only until registers of eligibles are established through the regular examination procedure provided in section 145 hereof but in no event to exceed six months beyond the cessation of hostilities. Applicants who qualify for limited tenure appointments under the provisions of this section shall be appointed to positions in order of priority of filing applications. Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the civil service commission without reference to the procedures governing removals set forth in section 154 hereof. Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this charter or by rule of the civil service commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in section 145 of the charter.

Non-civil service appointments in the absence of civil service eligibles as provided in section 149 of this charter shall not be authorized if applicants qualified for limited tenure appointments are available. The civil service commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in section 145 hereof. If its annual appropriation is insufficient to meet the cost of the examinations required to establish registers of eligibles through the examination procedures set forth in section 145 hereof, or to qualify applicants for limited tenure appointments as herein provided, the commission shall report to the mayor the estimated cost thereof and the mayor shall request and the supervisors shall make supplemental appropriations therefor in the manner provided herein for supplemental appropriations.

The civil service commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments. [*New section, 1943*]

year 1946-1947 out of such funds as the controller certifies are available. [*New section, 1946; amended, 1947*]

The hiring and paying of municipal employees is a municipal affair, and a charter provision like section 151.3 is for the "government of the City and County within Const. art. xi, § 8, **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section is not an unconstitutional delegation of legislative power. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

The argument that this section has a viciousness that may have tremendous repercussions on city government generally, is not tenable in a court which is not concerned with the wisdom of law. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section relates to "take home pay" of employees, and extends to premium pay for work on night shifts and pay for holidays. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section is not subject to objection on the ground that it is not one of the matters enumerated in Const. art. xi, § 8½. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section does not provide for collective bargaining by employees, or contravene the state policy precluding such bargaining by public corporations. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

This section does not violate Const. art. xi, § 13, which is merely a restraint on the State Legislature's interference with municipal affairs. **Adams v. Wolff** (1948) 84 Cal. App. (2d) 435, 190 Pac. (2d) 665.

Under this section, providing for regulation of rates of pay of municipal employees in certain crafts or groups by adopting the rates of pay fixed by collective bargaining by such crafts or groups in private industry, which section is by its later enactment and own terms controlling over § 151, giving all municipal employees with one year's service two weeks annual paid vacation, the amount of paid vacation is a part of the compensation of such employees, and the amount of such vacation, if any, provided by the collective bargaining agreement of a given craft in private industry is the amount to which municipal employees in such craft are entitled; and thus, where the agreement of a craft calls for only five working days paid vacation after a year's service and up to three years' service, that is all the vacation municipal employees in that craft may be allowed for such period of service. **Adams v. City & County of San Francisco** (1949) 94 ACA 616, 211 Pac. (2d) 268.

The sick and disability leaves provided for employees of the city and county of San Francisco by § 153 of the charter, rule 32 of the civil service commission, and part 1, § 301, of the Municipal Code, is not an element of the compensation of such employees, and is not governed by the provision of charter § 151.3 for regulation of rates of pay of municipal employees in certain crafts or groups by collective bargaining in private industry. Being treated separately from rates of pay in such legislation and determined by a different body (the Retirement Board), such sick and disability benefits have to do with welfare or working conditions rather than rates of pay, and inure to the benefit of all employees covered thereby, regardless of the provisions of charter § 151.3. **Adams v. San Francisco** (1949) 94 ACA 616, 211 Pac. (2d) 368.

Annual Vacation of Employees

SECTION 151.4. Every person employed in the city and county service shall, after one year's service, be allowed a vacation with pay of two calendar weeks, annually, as long as he continues in his employment, provided that, after five years' service every person so employed shall be allowed, as long as he continues in his employment, a vacation with pay of fifteen days, annually, calculated as hereinafter provided. For the purpose of computing vacation time, each employee shall be considered to work five days each week and holidays occurring within any such five days shall be considered as working days. For the purpose of computing vacation pay, no employee shall be considered to work more than five days each week and pay for holidays occurring on any of such fifteen days shall be computed on a straight time basis. Vacation pay for employees working less than five days each week shall be computed proportionately. The time when vacations are taken shall be at the convenience of the department with due regard for seniority.

This section shall become effective on January 1st, 1951. [*New section, 1949*]

CIVIL SERVICE
(Continued)

Service Records

SECTION 152. The civil service commission shall establish an inspection service for the purpose of investigating the conduct of and action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the commission in making its investigations and any person hindering the commission or its agents shall be subject to suspension.

Leaves of Absence

SECTION 153. Leaves of absence to officers and employees of the city and county shall be governed by rules established by the civil service commission, provided that leave of absence to any officer or employee for the purpose of leaving the city and county, taking a position outside of the city and county service, or accepting a position in some department or office of the city and county other than the one in which he is employed and where the duties are in no way related to the duties covered by his civil service classification, shall be limited to six (6) months; and provided, further, that no limit shall be placed on a leave of absence granted to enable an officer or employee to accept promotion to a non-civil service position in the same department in which he holds civil service status, or promotion to co-related work in another department or office of the city and county.

Leaves of absence shall be granted to officers and employees of the City and County of San Francisco and non-certificated officers and employees of the San Francisco Unified School District for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two (2) years after the proclamation of peace, except in case of disability incurred while in active service with the armed forces or the merchant marine when such disability shall extend beyond such period.

Whenever any officer or employee of the City and County of San Francisco, or any non-certificated officer or employee of the San Francisco Unified School District shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report and serve in the armed forces of the United States, or in the armed forces of the State of California, said officer or employee shall be entitled to a leave of absence from his office or position during the time of such service and for a period not to exceed three (3) months after the expiration thereof. Officers and employees entering or being inducted into any of the services requiring military leave as provided in this section shall file with the civil service commission a copy of the orders necessitating such service prior to the effective date of the leave of absence. Leaves granted pursuant to the provisions of this and the preceding paragraph of this section shall be designated "military leaves."

The board of supervisors may, on the recommendation of the civil service commission, provide by ordinance that leaves of absence shall be granted to officers and employees during time of war or during any emergency declared by the President of the United States, for other service directly connected with the prosecution of the war or national defense or preparedness. Leaves granted under authority of ordinances enacted pursuant to the provisions of this paragraph shall be designated "war effort leaves."

Any officer or employee on military leave, who, prior to such leave, has been appointed to a permanent position in the city and county service, shall be entitled to resume such position at the expiration of his leave, and in determining and fixing rights, seniority, salary and otherwise, which have accrued and shall inure to the benefit of such officer or employee, the term of military leave shall be considered and accounted a part of his service under the city and county.

Persons serving in the armed forces of the United States or the State of California during time of war or during any emergency lawfully declared by the President of the United States, who have standing on an eligible list, shall retain their places thereon, and upon presenting an honorable discharge or certificate of honorable active service from such military service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, shall be preferred for appointment for a period of four (4) years after the proclamation of peace or the termination of said emergency in the order of standing upon such register at the time of entering such military service and before candidates procuring standing through an examination held subsequent to the entrance of such eligibles into the military service. If while in said military service the names of such persons are reached for certification to permanent positions, appointments shall be made to serve until such persons in the military service shall present to the civil service commission an honorable discharge or certificate of honorable active service within the period of time and subject to the conditions as prescribed by rules of the civil service commission, but not more than one (1) year after the date of discharge of each such eligible, when they shall be certified and assume the duties of positions in said class and their certification to said positions for all purposes of seniority shall be deemed to be the date when their names on such eligible lists were reached for certification, provided that each appointee to a position shall serve such probationary period as is required in section 148 of this charter, and provided that such employee while serving on such probation shall be permitted to participate in any promotive examination to which his classification is eligible but shall not be entitled to certification by virtue of such promotional examination prior to satisfactory completion of said probationary period and provided further that no such persons shall be certified to entrance positions in the uniformed ranks of the police and fire departments under this provision who are more than thirty-five (35) years of age unless the names of such persons were reached for certification to such positions before such persons reached said age.

Persons who participate in a regular written civil service examination and who by reason of their active services in the Army, Navy or Marine Corps are unable to complete all parts of the examination, and who present their orders or other competent proof of service in the same manner as is required of eligibles, shall acquire standing on eligible lists in accordance with the relative excellence attained by participation in the part or parts of the examinations already completed; provided that upon presenting their honorable discharges or certificates of honorable active service within the time limits specified in this section covering eligibles, they must qualify in the remainder of the examinations. When qualified they shall be certified as of the date they would have been reached for certification in accordance with the relative excellence attained by their participation in the entire examination.

The civil service commission shall adopt rules to govern the administration of leaves as herein provided and to govern lay-offs occasioned by the return of officers, employees, or eligibles who have been appointed and granted leave or certified as provided in this section.

All leaves of absence granted under Rule 31.2 of the civil service commission are hereby ratified and approved.

For the purpose of certifications, appointments, leaves or any other matters concerning the rights of persons who are serving or have served in the armed forces of the United States or the State of California, the provisions of this section shall be retroactive to September 16, 1940, and any persons heretofore granted military leaves for any purpose other than to enter the armed forces of the United States or the State of California shall be deemed to have been granted war effort leaves by the civil service commission in accordance with the provisions of this section.

The civil service commission by rule and subject to the approval of the board of supervisors by ordinance, shall provide for leaves of absence, due to illness or disability, which leave or leaves may be cumulative, if not used as authorized, provided that the accumulated unused period of sick leave shall not exceed six (6) months, regardless of length of service, and provided further that violation or abuse of the provisions of said rule and ordinance by any officer or employee shall be deemed an act of insubordination and inattention to duties. [*Amended, 1941; 1943; 1944; 1947*]

A judgment for petitioner in mandamus compelling the Civil Service Commission to certify his name to the Board of Supervisors to the position of general clerk stenographer in such board properly provided that petitioner be granted a leave of absence, without pay, from his present position as general clerk typist in the recorder's office while serving the probationary period in the new office. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

Reinstatement of and Leaves of Absence for Members of American Red Cross

SECTION 153.1. (a) Whenever any officer or employee of the City and County of San Francisco, or any non-certified employee of the Unified School District thereof, after the 8th day of December, 1941, and during the existence of the present war between the United States of America and the Axis Powers, has resigned from or relinquished his or her position under the government of the city and county, or under said Unified School District thereof, and within a period of sixty days thereafter has entered the service of the American Red Cross, as a social service worker, field director or assistant field director therein, said officer or employee after the termination of his or her service with said American Red Cross, and within the time limits prescribed by law for persons on military leave, shall be entitled to resume his or her position from which he or she resigned or which he or she relinquished, upon presentation of proof that said person did within sixty days after resigning from, or relinquishing, his or her position with the city and county, or with the Unified School District thereof, enter the service of the American Red Cross as a social service worker, field director or assistant field director. Service with the American Red Cross as a social service worker, field director or assistant field director, during the existing war shall be deemed to be service with the city and county insofar as seniority of service and compensation are concerned, and said person so serving with the said American Red Cross shall be deemed to be on military leave, and shall be entitled to all the rights and privileges accorded to other officers and employees of said city and county who have been granted military leave to serve in the armed forces of the United States, or of the State of California.

The rights and privileges herein granted to former officers and employees serving as social service workers, field directors or assistant field directors with the American Red Cross shall cease at the expiration of two years after the end of the present war between the United States of America and the Axis Powers, provided, however, that any person who severs his or her connection with the American Red Cross, and who fails to seek reinstatement to his or her position with the city and county, or with the Unified School District, within the time limits prescribed for persons on military leaves as defined in section 153 of the charter and rules of the civil service commission, shall not be entitled to reinstatement.

(b) From and after the effective date of this amendment military leave as provided in section 153 of this charter for those serving in the armed forces of the United States or of the State of

California shall be granted for service with the American Red Cross as social service worker, field director or assistant field director. [*New section, 1945*]

Suspension and Dismissal for Cause

SECTION 154. No person employed under the civil service provisions of this charter, exclusive of members of the police and fire departments as provided under section 155, hereof, in a position defined by the commission as "permanent" shall be removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defense. Pending such hearing, the appointing officer may suspend the person so accused; but such suspension shall not be valid for more than thirty days, unless hearing upon the charge shall be delayed beyond such time by the act of the accused person. When charges are made, the appointing officer shall, in writing, notify the person accused of the time and place when the charges will be heard, by mailing such statement to his last known address. The appointing officer shall publicly hear and determine the charges, and may exonerate, suspend or dismiss the accused. If the employee is exonerated the appointing officer may, at his discretion, remit the suspension and may order payment of salary to the employee for the time under suspension, and the report of such suspension shall thereupon be expunged from the record of service of such employee. The civil service commission shall immediately be notified of the charges when made, of the hearing, and of the finding thereon. The finding of the appointing officer shall be final, unless within thirty days therefrom the dismissed employee appeals to the civil service commission. The appeal and all proceedings shall be in writing and shall briefly state the grounds therefor. The civil service commission shall examine into the case and may require the appointing officer to furnish a record of the hearing and may require in writing any additional evidence it deems material, and may, thereupon, make such decision as it deems just. The order or decision of the commission upon such appeal shall be final and shall forthwith be enforced by the appointing officer. If the civil service commission shall reverse or alter the finding of the appointing officer it may, in its discretion, order that the employee affected be paid salary from the time of his discharge or suspension.

The civil service commission may hear and determine any charge filed by a citizen or by the authorized agents of the commission when the appointing officer neglects or refuses to act. Removal or discharge may be made for any of the following causes: incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, inattention to duties, or engaging in prohibited political activities.

Nothing in this section shall limit or restrict rules adopted by the commission governing lay-offs or reduction in force.

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding thirty days; and suspension shall carry with it the loss of salary for the period of suspension. The suspended employee shall be notified in writing of the reason for such suspension, and if the suspension be for more than five days the employee shall, at his request, be given a hearing by the appointing officer. The decision of the appointing officer in all cases of suspension for disciplinary purposes shall be final. [*Amended, 1948*]

A temporary cessation or suspension from employment is not within the provision prohibiting removal or discharge except for cause, upon written charges and after an opportunity to be heard. **Weigle v. San Francisco** (1937) 23 Cal. App. (2d) 274, 72 Pac. (2d) 902.

Service of Notice.—Under a Charter provision forbidding discharge of any person in classified civil service except for cause stated in writing filed with the commission with certification that a copy of such statement had been served personally or by leaving a copy at the employee's last known address (Los Angeles Charter, § 112(a) the filing of the certificate showing the manner if service is jurisdictional, and this, irrespective of actual knowledge of the fact by the employee. **Shannon v. Los Angeles** (1928) 205 Cal. 366, 270 Pac. 682; **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

A board was not deprived of jurisdiction over proceedings to remove an officer by reason of want of a showing of due diligence to serve him with notice pursuant to a charter provision providing for service by sending a copy by registered mail to his last known address if after due diligence he could not be found (L. A. Charter, § 202(4) where not only did the trial board know that the officer was absent from the United States and that a communication would not reach him, but it granted a rehearing on his request as an act of grace. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) .... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Grounds for Dismissal.—The dismissal of a civil service employee cannot be said to be without cause where it is predicated on the ground that the employee attempted to cause dissension among employees by circulating a handbill protesting against a book of rules adopted for conduct of employees. The right involved is not the constitutional right of free speech, but the right to exercise reasonable supervision over city employees to the end that activities among employees be not allowed to disrupt or impair public service. **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

Rehearing.—The Civil Service Commission has no power to rescind its order dismissing an employee from his position in the municipal civil service in the absence of express authorization. **Heap v. Los Angeles** (1936) 6 Cal. (2d) 405, 57 Pac. (2d) 1323, quoted in **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367.

A delayed petition for writ of mandate to compel reinstatement to a civil service position from which the petitioner had been discharged, must allege facts excusing the delay. **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

Delay in Instituting Proceedings.—One seeking mandamus to compel his reinstatement to a civil service position from which he has been dismissed must act promptly. An unexcused delay of nine months in invoking the remedy would bar relief in view of the prejudice to the City in case the petitioner should be successful and the City would be required to compensate him for services performed by others who had been compensated therefor. **Hayman v. Los Angeles** (1936) 17 Cal. App. (2d) 674, 62 Pac. (2d) 1047.

The remedy by certiorari will lie to review the proceedings of a Civil Service Commission resulting in the dismissal of one in the classified civil service. **Swars v. Vallejo** (1944) 64 Cal. App. (2d) 858, 149 Pac. (2d) 397.

Fire and Police Disciplinary Procedure

SECTION 155. Members of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments, shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three months, or by dismissal, after trial and hearing by the commissioners of their respective departments.

Members of either department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense.

A rule of the police department requiring members of the department to testify without reservation in any investigation conducted before the grand jury as well as in all cases before courts is not subject to attack on constitutional grounds. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The general law requiring that rules and regulations for government of the police department shall prescribe a separate and distinct penalty for violation of each rule and regulation (See Stats. 1911, p.

1160; Deering's Gen. Laws, Act 6014) has no application in San Francisco. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

Grounds for Dismissal.—The exercise by a police officer of his privilege against testifying in a grand jury investigation into the question of his commission of crime, is cause for dismissal, even in the absence of any specific rule requiring an officer to testify before the grand jury or relating to conduct unbecoming an officer. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

Neglect of Duty.—A police officer is properly found to be guilty of neglect of duty justifying his discharge where, having been on military leave pursuant to a Charter provision providing that during service in the "armed forces" of the United States and for 90 days after discharge officers shall be considered on leave of absence (L. A. Charter, § 17), he does not return to service following his discharge, but, without seeking leave, enrolls in the merchant marine. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Pub. Law 87 (50 U.S.C.A. App. 1472) declaring in effect that it is the sense of Congress that a person leaving employment of the state or a political subdivision for service in the merchant marine should be restored to his position or a position of like seniority, status and pay, is not binding on a city in the absence of the adoption of an appropriate California statute. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Investigation by Grand Jury.—A police officer is before the grand jury so as to justify dismissal proceedings in case of his refusal to testify where, despite a defect in the subpoena or the service thereof, he is actually before that body attempting to enter a spcial appearance to challenge the validity of the process. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

Fair and Impartial Trial.—There was no showing of bias on the part of a police commissioner sufficient to disqualifying him from participating in the trial of a police officer for his refusal to testify in a grand jury investigation where it was shown merely that he had publicly announced that the failure of any officer to testify frankly before the grand jury would be considered unofficerlike conduct, that he had been active in amending the rules during the investigation so as to require officers to testify therein, and that he intended to enforce the amended rule strictly. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The requirement of due process in the removal of a police officer is satisfied where he is accused, notified and fairly tried in conformance with Charter provisions. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) (81 A.C.A. 1055), 185 Pac. (2d) 430.

The charge against a police officer in the form of an ordinary complaint and verified in the form prescribed for verification of pleadings in civil actions is sufficient in form. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429.

The complaint against a police officer may be verified before the Chief of Police in view of § 4, and Pol. Code, §§ 343 (now Gov. Code, § 1001), 1028. **Christal v. Police Commission** (1939) 33 Cal. App. (2d) 564, 92 Pac. (2d) 416.

The penalty imposed by the Board of Police Commissioners upon a member of the department found guilty of the charges brought against him involves its discretion; not its jurisdiction. **Ludolph v. Board of Police Commissioners** (1939) 30 Cal App. (2d) 211, 86 Pac. (2d) 118.

The authority conferred upon the Board of Police Commissioners by this section is pursuant to the Constitution and is of a judicial character exercised by a quasi-judicial body. **Ludolph v. Board of Police Commissioners** (1939) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

The duty of the Board of Police Commissioners on a trial of charges against a member of the police department or on a hearing after his conviction to fix his punishment could not be diminished nor extended by his prior acquittal of charges brought by the grand jury. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

Rehearing.—The police commission has no power to rehear a proceeding resulting in an order removing a police officer, in the absence of express authority. The power to punish after hearing does not carry the express power to revoke or to reinstate. **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367. See to same effect **Proud v. McGregor** (1937) 9 Cal. (2d) 178, 70 Pac. (2d) 194, with respect to the power of the police commission of Santa Barbara.

Review.—When a police board, vested with full power to determine guilt of a police officer, has acted in accord with prescribed procedure, a superior court has no power or authority to determine whether the grounds on which his discharge was based were well founded. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

On certiorari to review an order of the Police Commission dismissing an officer from the department, the court is called on to review whether the pleading stated facts sufficient to confer jurisdiction, but this is not the proper remedy in which to contest the truth as to jurisdictional facts. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429; **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

An order of the Board of Police Commissioners dismissing a lieutenant will not be set aside by the courts where such order is made by the board in the proper exercise of its discretionary Charter powers and after a formal charge, trial and conviction. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

Pleading.—Where a Charter confers discretionary power upon a police board to determine whether a police officer has been guilty of neglect of duty, a complaint which alleges that the board heard evidence offered by the complainant officer and derived its decision therefrom does not state a cause of action for a writ to compel reversal of the decision and restoration of the officer to his position. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Reinstatement.—When a police officer has by due process of law forfeited his right to be on the police force, the Chief of Police is without authority to restore him. To regain his position, he must pursue the route followed by any citizen who seeks to become a police officer. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Transfer of Disabled

SECTION 156. When a permanent civil service employee other than a member of the fire department and police department who has served not less than three (3) years in his position, has become incapable through advanced age, accident or other disability, of performing the duties of his position, the civil service commission may, with the consent of the appointing officer or appointing officers involved, transfer him to a position within his capacities to perform, whether or not within the classification for which he qualified for appointment, but such position shall not be in a classification having a higher compensation schedule than the one from which he is transferred, and his compensation shall not thereafter be increased beyond the maximum salary for the classification to which such employee is transferred, nor in any event shall his salary be increased to equal the salary such employee would have received had he remained in his former position; provided, however, that a permanent employee, including any permanent member of the fire department and police department, who has become incapable of resuming his former position through disability incurred while on active service with the armed forces while on military leave may upon application after his discharge from military service be transferred under the provisions of this section, regardless of his length of service.

Employees transferred under the provisions of this section may, upon recovery from the disability, and with the consent of the civil service commission, return to a vacancy in their former classification.

Positions filled under the provisions of this section shall not be subject to salary standardization, but the salaries thereafter shall be fixed by the civil service commission within the limitations herein provided. The civil service commission shall make rules to carry out the intent of this section and such rules shall govern all transfers made under the provisions of this section. [*Amended, 1944; 1946*]

Prohibition of Political Activity

Section 157. Active participation in city and county politics, relative to the election or appointment of public officials, by civil service employees and eligibles of the city and county, is subversive of the best interests of the merit system and, therefore, persons holding positions in the classified civil service or on eligible lists for such positions shall take no active part in such political campaigns, or in soliciting votes, or in levying, contributing or soliciting funds or support, in each case for the purpose of favoring or hindering the appointment or election of candidates for city and county offices. Violation of the provisions of this section shall be deemed an act of insubordination and considered good cause for suspension or dismissal from position or removal from eligible list.

MISCELLANEOUS

Per Diem and Mileage

SECTION 219. Except in the discharge of routine duties, traveling and payment of expenses therefor shall be authorized only by ordinance; provided, that allowances therefor shall not exceed cost of transportation, including Pullman charges, if any, and a reasonable amount per diem for necessary expenses, which per diem shall be fixed annually by ordinance and shall be applicable to all officers and employees.

Cited Without Particular Application: **Powell v. San Francisco** (1944) 62 Cal. App. (2d) 291, 144 Pac. (2d) 617.

Office Hours

SECTION 220. Except where otherwise provided by law, all public offices shall be open for business every day, except legal holidays, from eight thirty o'clock A. M. until five o'clock P. M. The supervisors by ordinance may provide that any office shall be kept open for a longer time, when necessary for the accommodation of the public.

Civil Service Exemptions

SECTION 221. References throughout this charter to the exclusion or the exemption from the civil service provisions of this charter shall be construed to mean, exclusive of those civil service provisions that relate to examination, appointment and removal.

Prohibited Practices of Officers and Employees

SECTION 222. No member of any board or commission shall accept any employment relating to the business or the affairs of any person, firm or corporation which are subject to regulation by the board or commission of which he is a member. No supervisor and no officer or employee of the city and county, shall be or become, directly or indirectly, interested in, or in the performance of, any contract, work, or business, or in the sale of any article, the expense, price or consideration of which is payable from the treasury; or in the purchase or lease of any real estate or other property belonging to, or taken by, the city and county, or which shall be sold for taxes and assessments, or by virtue of legal process at the suit of the city and county; nor shall any person in this section designated during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for, the city and county, or any department or officer thereof, or in any franchise, right or privilege granted by the city and county, unless the same shall be devolved upon him by law; nor shall any person mentioned in this section give or promise any money or other valuable thing, or any portion of his compensation, in consideration of his nomination, appointment, or election to any city and county office or employment; or accept any donation or gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee, or from any candidate or applicant for a position as employee or subordinate under him. Violation of any of the provisions of this section shall constitute official misconduct.

Penalty for Official Misconduct

Section 223. Any person found guilty of official misconduct shall forfeit his office, and shall be forever after debarred and disqualified from being elected, appointed or employed in the service of the city and county.

Publication

Section 224. Whenever advertising or publication is required by the provisions of this charter, it shall mean one publication in the official newspaper of the city and county, unless a greater number of publications is specifically required; provided that notices inviting bids shall be published for at least three consecutive days, except as provided in section 95 of this charter.

Headings and Captions

Section 225. Headings and captions used in this charter, whether the same occur between sections or immediately preceding section numbers, are hereby declared to be for no other purpose than the convenient indication of the general subject matter of the provisions which follow, and they shall not be considered or construed in connection with the text of this charter in any way so as to alter or modify the meaning or intent of the provisions of this charter, as such meaning or intent would be determined if such headings and captions were not used.

The Charter is to be construed as a law enacted by the Legislature. **Bruce v. Civil Service Board** (1935) 6 Cal. App. (2d) 633, 45 Pac. (2d) 419, (citing **C. J. Kubach Co. v. McGuire** (1926) 199 Cal. 215, 248 Pac. 676; **Stern v. Berkeley** (1914) 25 Cal. App. 685, 145 Pac. 167; **Taylor v. Cole** (1927) 201 Cal. 327, 257 Pac. 40; **Whitmore v. Brown** (1929) 207 Cal. 473, 279 Pac. 447); **Yosemite, etc. Corp. v. State Board of Equalization** (1943) 59 Cal. App. (2d) 39, 42, 138 Pac. (2d) 39.

FOURTH SUPPLEMENT TO 1948 EDITION OF CHARTER

This supplement contains:

1. History of Charter Legislation.
2. New and amended Charter sections.
3. Supplemental Index and Table of Deletions.
4. Supplemental Digest.

SUGGESTIONS FOR USE

In the front of the book substitute the new "History of Charter egislation" for the one presently contained therein.

Remove all of the Charter sections, or parts thereof, superseded y the Charter sections contained in this envelope and, if it is desired to etain such superseded sections, place them at the back of the book ehind the division sheet entitled "Superseded Sections".

In the back of the book, behind each subject division sheet, ibstitute new "Supplemental Index" and "Supplemental Digest" for hose presently contained therein.

John R. McGrath
Clerk of the Board of Supervisors

January, 1943, shall not expire at twelve o'clock noon on said date, but shall continue until the 8th day of January, 1944, and the office of assessor shall be filled at the general municipal election in 1943, for a three year term from said date, and said office of assessor shall again be filled at the general election in 1946 for a four year term from said date, and at the general election in each fourth year thereafter. [*Amended, 1941*]

Officers formerly elective and now appointive as within civil service, see § 62.

Irrespective of the question whether a charter provision that the term of an elective officer continues until his successor qualifies is applicable to an appointee to such office holding over, his term continues by virtue of the general rule to that effect which applies in the absence of statute or charter providing otherwise, and also by virtue of Gov. Code, § 1302, when this provision is made applicable by a charter provision making applicable to a city the general laws not inconsistent with the charter. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

Absence from State, and Vacancies

SECTION 6. No officer of the city and county, except members of the police department acting under orders of the chief thereof, shall absent himself from the state, except by permission of the mayor and the board of supervisors. Violation of this section shall be sufficient cause for removal of any officer violating the same.

An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a crime involving moral turpitude, or of an offense involving a violation of his official duties, or is removed from office, or ceases to be a resident of the city and county, or neglects to qualify within the time prescribed by law, or within twenty days after his election or appointment, or shall have been absent from the state without leave for more than sixty consecutive days.

Qualifications of Officers and Employees

SECTION 7. No person shall be a candidate for any elective office, nor shall be appointed as a member of any board or commission or as an officer of the city and county unless he shall have been a resident of the city and county for a period of at least five years and an elector thereof for at least one year immediately prior to the time of his taking office, unless otherwise specifically provided in this charter. All employees of the city and county shall be citizens and shall have been residents thereof, for at least one year prior to the appointment, unless otherwise specifically provided in this charter, and members of the fire and police departments shall be citizens and shall have been residents of the city and county for at least five years next preceding appointment, and every elected officer, member of any board or commission and employee, including members of the fire and police departments, shall continue to be a resident of the city and county during incumbency of office or employment, and upon ceasing to be such resident, shall be removed from such office or employment; provided that where competent citizens who are residents of the city and county cannot be secured to fill positions outside of the city and county, then nonresident citizens may be appointed to fill such positions; provided, further, that employees who at the time of original appointment to positions in city and county service were or at such time are residents of the city and county, and who now or at any time occupy positions the usual duties of which require their presence daily at places which are more than fifty miles distant from the city and county, may establish and continue residence in any county convenient to such place of duty for the duration of their employment at any such places, and shall have all rights in relation to any such employment or to any other position in any department of the city and county, including but not restricted to all rights respecting participation in examinations for appointment to, or occupancy of such other positions, to the same extent as though they had continued to be residents of the city and county during all of such time; and provided, also, that positions requiring expert or technical training may, on the recommendation of the department head and the mayor, and with the approval of the civil service commission and the board of supervisors, be exempted from the requirements of this section. A "resident" within the intent and purpose of this section, means one who actually lives within the city and county and maintains an abode therein, where such resident with his family, if any, customarily spends the night, provided, however, that residence outside the confines of the city and county for a period not to exceed three months in any calendar year, or absence of a resident from the city and county upon any bona fide journey, whether for business or pleasure and for whatever length of time, or absence of a resident while in the performance of any duties as an elected or appointed official or employee of the State of California or the government of the United States, shall not be within the contemplation of this section; provided, however, that any officer or employee of the city and county may live outside the City and County of San Francisco upon the authorization of the director of health, filed in the office of the civil service commission, and granted on account of the ill health of said officer or employee or the ill health of a member of the immediate family of said officer or employee. [*Amended, 1933; 1951*]

Both civil service and non civil service employees are included in the requirements of this section as to citizenship and one year's residence. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

This section has reference to appointees, not to examinees, and so an applicant for civil service examination may not successfully invoke its provisions to justify his failure to comply with the residential requirement of § 144 of the Charter. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

School teachers and employees of the school department are not included in the requirements as to residence laid down in this section for the employees of the City and County of San Francisco. **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

Bonds of Officers and Employees

SECTION 8. Unless otherwise provided in this charter, such officers and employees as may be specified by ordinance, shall give bond in such amounts as may be required by the ordinance, provided that the minimum amount of the bond to be furnished by the controller be $100,000; by the tax collector $100,000; by the county clerk $50,000, and by the public administrator $50,000. The board of supervisors shall provide by ordinance the terms, form and conditions of all such bonds and for the filing thereof. The sureties on such bonds shall be such as specified by and approved in the manner provided by ordinance. The board of supervisors may, by ordinance, provide for group bonding of officers and employees. The premiums on all official bonds shall be paid by the city and county. [*Amended, 1946*]

When a charter provides for an official bond of an officer in such penal sum as may be fixed by ordinance, and in a later provision in a specified penal sum, inasmuch as the two provisions are in direct conflict, the later in point of position is controlling. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

By virtue of a charter provision making general laws applicable to a city and Gov. Code, § 1504, the obligation of a surety on an official bond continues when an officer, elected as his own successor, fails to qualify for the successive term and yet continues in the duties of the office. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

Powers Vested in Board of Supervisors

SECTION 9. The powers of the city and county, except the powers reserved to the people or delegated to other officials, boards or commissions by this charter, shall be vested in the board of supervisors and shall be exercised as provided in this charter. The board of supervisors shall, ex officio, be the board of equalization for the city and county. It shall be the duty of the board of supervisors to canvass the vote cast at each election in the city and county, and certify the official count of such balloting. The supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the city and county and shall fix rates and schedules of compensation therefor in the manner provided in this charter. On the recommendation of the mayor and the chief administrative officer, the board of supervisors may create or abolish departments which are now or may hereafter be placed under the chief administrative officer or under commissions appointed by the mayor.

The board of supervisors may, by ordinance, confer on any officer, board or commission such other and additional powers as the board may deem advisable.

The board of supervisors, by ordinance, may provide medical care, hospitalization, compensation and such other benefits as the board may deem necessary for regularly authorized volunteer civilian defense workers suffering injury arising out of and in the course of their activities as such civilian defense workers.

Whenever the board of supervisors by ordinance shall declare that the public interest demand a night university, municipally established, maintained and controlled, they shall submit the proposal to the people, and if approved by a majority of the electors voting thereon, the board of supervisors may by ordinance provide for the establishment, maintenance and control of such a night university having courses of instruction in advance of the instruction maintained in high schools or junior colleges. Said university shall have the power to grant academic degrees and shall be open to any resident of the city and county qualified to enter and pursue the courses of instruction therein given. [*Amended, 1943*]

A contract for services of a civil engineer for a 5-year period to furnish information respecting transit and traffic conditions does not provide an invalid duplication of functions and duties of exist-

ing officers. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

The Charter imposes no limitation on the powers of the Supervisors to plan, study and legislate for civic betterment and improved conditions of municipal affairs. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Only those powers of the city which are not reserved to the people or delegated to other officials, boards or commissions, are vested in the Board of Supervisors, to be exercised as provided in the Charter. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Quoted in **King v. Leavy** (1932) 124 Cal. App. 422, 427, 12 Pac. (2d) 661.

Number, Compensation and Meetings of Supervisors

SECTION 10. The board of supervisors shall consist of eleven members elected at large, provided that for the period January 8, 1932, to January 8, 1934, the board shall consist of fifteen members. Each member of the board shall be paid a salary of twenty-four hundred dollars ($2,400) per year, and each shall execute an official bond to the city and county in the sum of five thousand dollars ($5,000).

At twelve o'clock noon on the 8th day of January next following their election, the newly elected and continuing members of the board of supervisors shall meet at the legislative chamber in the City Hall, and thereafter regular meetings shall be held as fixed by resolution. The supervisors constituting the new board shall, on January 8, 1932, and every second year thereafter, elect one of their number as president of the board for a two-year term. The president shall preside at all meetings, shall appoint all standing and special committees of the board and shall have such other powers and duties as the supervisors may provide.

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place. The board shall cause a calendar of the business scheduled for each meeting to be published and shall keep and publish a journal of its proceedings. Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

Suspension and Removal

SECTION 11. Any elective officer, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service, recreation and park, and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part. [*Amended, 1935; 1949(2). See Sec. 11, Art. VI of the Constitution*]

SCHOOLS

Board of Education

SECTION 134. All of the public schools of the school district of the city and county shall be under the control and management of a board of education, composed of seven commissioners, who shall be nominated by the mayor and be subject to confirmation or rejection by vote of the electors as in this section provided, and who shall be subject to recall, and to suspensions and removal in the same manner as elective officers, as provided by this charter. The term of each member shall be five years, commencing on the 8th day of January following their respective nominations, provided that each such five-year term shall begin at the expiration of the respective terms of members as existing at the time this charter shall go into effect. The compensation of each member shall be fifteen dollars ($15) per day when the board is in session and ten dollars ($10) per day when engaged in committee work under the direction of the board, provided that the total amount for such session and committee work for the whole board shall not exceed six thousand dollars ($6,000) for any fiscal year, and that only those actually attending a session or doing such committee work shall be entitled to compensation therefor.

Nominations of members of the board of education shall be made, subject to confirmation by the electors, by the filing by the mayor, with the registrar of voters between the first and the tenth day of September in each year prior to the expiration of the term or terms of members, the name of one qualified citizen, or two, as the case may be, to serve as a member or members, respectivly, of said board for the regular term or terms commencing on the 8th day of January in the succeeding year.

The form of ballot shall be as provided in section 184 of this charter and if a majority of the qualified electors voting on said nomination or nominations shall vote in favor thereof, said nomination shall be confirmed and the person or persons named shall take office on the 8th day of January next following. If a majority of the electors vote "No," the nomination shall stand rejected, and such person shall not be eligible for nomination as a member of the board of education for a period of at least three years. If a majority of the electors vote "No," the mayor shall appoint a qualified citizen to serve as a member of the board until the 8th day of January following the next general election or general-municipal election, whichever shall first be held. Between the first and tenth day of September before such general election or general municipal election, the mayor shall nominate, subject to confirmation by the electors at such election, as herein provided, a qualified citizen to serve as a member of the board for the remainder of the five year term for which the nomination first made by the mayor was rejected. Vacancies otherwise occuring on said board shall be filled by the mayor for the unexpired terms. [*Amended, 1947*]

While as a matter of tenure and compensation, which are matters which may be regulated by the Charter, members of the Board of Education may be treated as municipal officers, yet such members after induction into office become officers of a political subdivision of the state, separate and distinct from the municipality within whose boundary the school district is located. **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

In view of the fact that §§ 134 to 139, both inclusive, contain no provision dealing with residential requirements of members of the school department, and of the further fact that § 7 makes no mention of school department employees, employment by the Board of Education of persons who reside outside the limits of the City and County does not violate the Charter **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

Powers and Duties of Board of Education

Section 135. In addition to the powers conferred by the general laws of the state and other provisions of this charter, the board of education shall have power to establish and maintain such schools as are authorized by the laws of the state as the board may determine, and to change, modify, consolidate or discontinue the same as the public welfare may require.

The board shall also have power to employ such teachers and other persons as may be necessary to carry into effect its powers and duties; to fix, alter and approve their salaries and compensations, except as in this charter otherwise provided, and to withhold for good and sufficient cause the whole or any part of the wages, salary, or compensation of any person or persons employed as aforesaid; and to promote, transfer and dismiss teachers, but no teacher shall be dismissed from the department except for insubordination, immoral or unprofessional conduct, or evident unfitness for teaching. Appointment, promotion, assignment and transfer of deputy superintendents, principals, assistants, teachers and all other certificated employees shall be made by the board of education upon the recommendation of the super-

period of three years preceding that event. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698.

A school principal who is dismissed on consolidation of the school with another is not in position to complain that the consolidation was made for the purpose of defeating her permanency of principal-teacher where at the time of the consolidation she has not acquired such permanency. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698.

Vice-Principals.—Under Pol. Code, § 1793, prior to its repeal in 1929, one elected without time limitation as vice-principal acquired a permanent tenure precluding the Board of Education from dismissing her as such without cause and retaining her as a teacher merely. This is consonant with this section of the Charter extending permanent tenure to vice-principals. **Klein v. Board of Education** (1934) 1 Cal. (2d) 706, 37 Pac. (2d) 74.

A class room teacher in two schools in the same district, who for more than three years prior to his dismissal served in that capacity as instructor in day classes in one school and night classes in the other, acquired a permanent tenure both under the tenure provisions of the then existing State School Code and of the city Charter, and, where dismissed without cause and without charges or hearing, was entitled to a writ of mandate compelling the Board of Education to restore him to his position as teacher. **Cullen v. Board of Education** (1932) 126 Cal. App. 510, 15 Pac. (2d) 227.

The school board is not estopped to deny that a school teacher was a principal during the three years prior to her dismissal, and entitled to tenure as such, merely because she may have performed the duties and received the salary of principal during that period, where her employment for the first of the three years was in a capacity other than that of principal. **Constantine v. Board of Education** (1941) 43 Cal. App. (2d) 794, 111 Pac. (2d) 698, distinguishing **Briney v. Santa Ana High School Dist.** (1933) 131 Cal. App. 357, 21 Pac. (2d) 610.

In mandamus to require reinstatement of petitioner as vice president and dean of women in a junior college, a contention of defendants that petitioner had acquired no tenure under this section was said by the court to be "not without merit" but it was not necessary to pass upon the point as the case was disposed of on another ground. **Leonard v. Board of Education** (1940) 36 Cal. App. (2d) 595, 97 Pac. (2d) 1032, citing **Unruh v. Piedmont High School Dist.** (1935) 4 Cal. App. (2d) 390, 41 Pac. (2d) 212.

See 21 California Law Review, p. 400.

Non-Certificated Employees, in Public School Cafeterias, With Certain Exceptions, Subject to Civil Service

SECTION 135.1. All non-certificated public school cafeteria employees of the San Francisco Unified School District, except those holding part-time positions for which the total compensation is less than $80.00 per month, who are citizens of the United States and who have been residents of the City and County of San Francisco for at least one year immediately prior to the ratification of this section by the legislature of the State of California, and who have been continuously so employed for such days as the schools are in session from January 1, 1948, up to and including the date of the ratification of this section by the legislature, shall be continued in such employ in positions to which allocated by the civil service commission as if appointed thereto after examination and certification from a civil service list of eligibles, and thereafter occupants of all such positions shall be governed by and shall be subject to the civil service and other provisions of this charter. [*New section, 1949*]

PENSIONS AND RETIREMENT

Retirement System for Officers and Employees

SECTION 158. In order to continue in force, with modifications as are set forth in this charter, provisions already existing for retirement and death benefits for officers and employees of the city and county, the San Francisco City and County Employees' Retirement System, hereinafter referred to as the retirement system or the system, is hereby created. Elective officers and members of boards and commissions shall not be eligible to the benefits of said retirement system. Officers who are made appointive by this charter, as well as officers and employees of offices heretofore not under the retirement system and who are brought under the said system by this charter, who shall have attained the age of at least seventy years on the date said charter becomes effective, shall not become members of the retirement system. Such officers and employees who shall not have attained the age of seventy years on such date shall become members of said retirement system on the date this charter becomes effective and any benefits granted on account of service excluding service rendered as lawful members of the retirement system, rendered by said officers and employees to the city and county prior to such date shall be provided by contributions of the city and county.

Ordinance No. 5561 (New Series) and amendments thereto, now establishing the employees' retirement system, shall continue in force until amended or revoked by the board of supervisors as provided in this section. The board of supervisors is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of sections 158 to 172, both inclusive, of this charter; provided that the board of supervisors shall secure, through the retirement board, an actuarial report of the cost and effect of any proposed change in the benefits under the retirement system, before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change.

Pension laws are to be liberally construed and applied to the end that the beneficent policy thereby established may be accorded proper recognition. **Brant v. Retirement Board** (1943) 57 Cal. App. (2d) 721, 135 Pac. (2d) 396; **Dornell v. Retirement Board** (1945) 72 Cal. App. (2d) 197, 164 Pac. (2d) 266.

The right to a pension is a continuing right, but the pensioner has no right to a specific sum, and the amount may be reasonably increased or decreased. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

A charter requirement that an employee should hold a position for a fixed period of time before he is eligible for a pension is not unreasonable or unjust, particularly to one who has actually served the allotted period. **Carr v. Fire Commission** (1938) 30 Cal. App. (2d) 208, 85 Pac. (2d) 959.

Pension rights under the Charter vest only upon the happening of the contingency or event upon which the right thereto accrues, and not at the time of the adoption of the Charter provision. **Jordan v. Retirement Board** (1939) 35 Cal. App. (2d) 653, 96 Pac. (2d) 973.

Without regard to the time of the vesting of pension rights, it is an implied condition of employment, and hence a condition of such vesting that the duties of the employee shall have been faithfully performed. **MacIntyre v. Retirement Board** (1941) 42 Cal. App. (2d) 734, 109 Pac. (2d) 962.

Retirement of Elective Officers

SECTION 158.1. Notwithstanding the provisions of section 158 of this charter, elective officers, except members of the board of supervisors and of boards and commissions, shall be members of the San Francisco city and county employee's retirement system and shall be subject to all of the conditions applying to other members thereof, except members of the fire and police departments, and except as herein otherwise provided. In the determination of contributions and benefits of any officer becoming a member of the retirement system by virtue of the provisions hereof, that part of the salary of such officer which exceeds one thousand dollars ($1,000) per month shall be excluded. Elective officers in office on the effective date hereof and otherwise eligible to the provisions hereof shall have the option to become members of said retirement system to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof. Each such present and future elective officer may retire at his option but only after having attained the age of seventy years and only after having occupied such an elective office or having been otherwise employed in a position subject to membership in the retirement system for at least twenty years immediately preceding retirement, and may retire by filing written application therefor with the retirement board, and the mayor shall thereupon appoint a qualified person for the unexpired term of office remaining at the time of any such retirement. Such elective officer shall thereafter receive a retirement allowance equal to one-half of the compensation received by him at the time of retirement, provided that such allowance shall not exceed five hundred dollars ($500) per month. Contributions required to provide the portion of the benefits under this section not provided by the member's contribution shall be paid to the retirement system by the city and county. [*New section, 1947*]

Retirement Board

SECTION 159. The retirement system shall be managed by a retirement board, which is hereby created, and which shall be the successor and have the powers and duties of the board of administration, the board of trustees of the police relief and pension fund and the board of fire pension fund commissioners. The retirement board shall consist of the president of the board of supervisors, the city attorney, a resident official of a life insurance company, and an officer of a bank to be appointed by the mayor, and three members elected from the active members, who shall not include retired persons of the retirement system, provided that the city attorney may designate, by written document filed with the said retirement board, an assistant city attorney to attend meetings of the said board and to act for him and in his place. The term of office of the five members, other than the ex officio members, shall be five years, one term expiring each year and the terms of such five members now holding office being unchanged by this section. The members of the retirement board shall serve without compensation. The board shall appoint an actuary, who shall hold office at its pleasure, and may appoint a secretary, provided that the positions of secretary and actuary may be consolidated into one position by the said board, and the board may employ a consulting actuary from time to time. The secretary or actuary shall have the power to administer oaths and affirmations in all matters pertaining to the business of the retirement system.

The retirement board shall be the sole authority and judge, under such general ordinances as may be adopted by the supervisors, as to the conditions under which members may receive and may continue to receive benefits of any sort under the retirement system, and shall have exclusive control of the administration and investment of such fund or funds as may be established, provided that all investments shall be of the character legal for insurance companies in Caliornia.

The Retirement Board is not a state-wide administrative board, but is a local board which may constitutionally be invested with quasi-judicial powers. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

The Charter confers judicial powers on the Retirement Board, and its findings based on conflicting evidence are binding on the courts. **Naughton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 714; **Dornell v. Retirement Board** (1945) 72 Cal. App. (2d) 197, 164 Pac. (2d) 266. See **Brant v. Retirement Board** (1943) 57 Cal. App. (2d) 721, 135 Pac. (2d) 396, stating that the question whether the Charter conferred judicial power on the Retirement Board was not free from doubt, and assuming that the board exercised judicial functions.

Quasi-judicial powers have been conferred on the Retirement Board by the Charter and Municipal Code. **Hogan v. Retirement Board** (1936) 13 Cal. App. (2d) 676, 57 Pac. (2d) 520; **Murphy v. Retirement Board** (1942) 49 Cal. App. (2d) 58, 121 Pac. (2d) 101; **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

The Retirement Board constitutionally has been invested with quasi-judicial power to determine, in the first instance, whether or not any applicant is entitled to retirement benefits. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

One who becomes mentally incompetent while in the City employ and remains mentally incompetent thereafter, but fails to file an application for benefits for seven years during which period she has no guardian, is entitled to have the Retirement Board pass upon her application for benefits. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

On mandamus to review an order of the Retirement Board refusing petitioner a hearing of her application for benefits on the ground that she was no longer a member of the retirement system, the superior court is limited to determining whether or not the board regularly pursued its authority in the matter, and may not, in the first instance, pass upon the factual issues the determination of which has been conferred on the board. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

See also, § 19.

PENSIONS AND RETIREMENT
(Continued)

Actuarial Tables, Rates and Valuations

SECTION 160. The mortality, service and other tables and the rates of contribution for members as recommended by the actuary and the valuations determined by him and approved by the retirement board shall be conclusive and final, and the retirement system shall be based thereon. The total amount, as determined by the actuary and approved by the board, of the contributions required during any fiscal year of the city and county under the retirement system shall be paid into the retirement system by the city and county during such year. Liabilities accruing under the retirement system because of service rendered to the city and county by persons prior to the date their respective classes become eligible for membership in the system, and administrative costs under the system, shall be met by contributions to the retirement system by the city and county, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the system, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service.

Contributions to the retirement system required of the city and county shall be charged by the controller against the general fund or the school, utility, bond or other special fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any person prior to becoming a member of the system, under a temporary fund, such as bond or county roads funds, or a fund then no longer existing, may be charged against the general fund, and provided further, that any contributions required on account of persons receiving benefits under subdivision (c) of section 165, shall be charged against the general fund.

Continuous Service

SECTION 161. Continuous service shall be defined by the board of supervisors, but the absence of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

Any contributing member of the retirement system who is absent after September 14, 1940, from the service of the city and county, by reason of service in the armed forces of the United States, or the State of California or service on ships operated by or for the United States government, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in the line of duty with said armed forces or on said ships when such disability extends beyond such period, or any service connected with the war effort for which leaves of absence shall be authorized pursuant to section 153 of the charter, or any such member who is absent after September 14, 1940, from the service of the city and county, by reason of an order of the government of the United States or the State of California, or by lawful order of any of the departments or officers of said governments, may elect to contribute to said retirement system while serving in said forces or on said ships, and at times and in a manner to be fixed by the retirement board, amounts equal to the contributions which he would have made from the beginning of said absence or from the date of said election, had he remained on duty in the position he occupied and at the compensation being earned by him immediately prior to the beginning of said absence. The city and county shall contribute to the retirement system on account of any member who exercises affirmatively the election provided herein, and on account of any non-contributing member who is absent by reason of service stated in this paragraph, in the same manner and amounts as if said member were not absent in said service. If the member's base pay in said service shall be less than one hundred dollars per month, city and county, in lieu of said member, shall contribute also said amount which the member otherwise would have been required to contribute under said election, and said contributions shall be administered as if made by said member.

It is the purpose of the paragraph next preceding, to place a member who is absent from the service of the city and county by reason of service as set forth in paragraph next preceding, and who contributes or for or on account of whom contributions are made as herein provided, in the same status under the retirement system, as that which he would have occupied had he remained on duty in the position he occupied immediately prior to the beginning of said absence and charter and ordinance provisions governing the retirement system, shall apply to said member with like effect as if he were not absent. If, however, a member who exercises affirmatively the election provided herein, shall default in any of the contributions due to the retirement system under said election, and if said contributions are not made for him, then he shall be considered absent from service during the period covered by said defaulted contributions, the same as if he had not exercised affirmatively said election, and he shall not receive credit as service for the city and county, for the period covered by said defaulted contributions; but the absence during said period of default shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance, as provided under the retirement system.

Any member of the retirement system who is absent from the service of the city and county by reason of service set forth in the second paragraph of this section, and who does not affirmatively exercise election herein provided, shall not receive credit as service for the city and county, for the period of such absence, but the absence shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance as provided under the retirement system. [*Amended,*] *1935; 1941; 1943; 1944*]

Definition, Members of Fire and Police Departments

SECTION 162. For the purposes of the retirement system, any officer or employee of the police or the fire departments whose employment therein began prior to January 1, 1900, or whose employment therein began on or shall begin after that date and was or shall be subject to a charter maximum age at the time of employment of not over thirty-five years, shall be considered to be a member of the police department or the fire department, respectively. Any fire or police service outside the limits of the city and county performed by a member of the retirement system and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

Pensions of Retired Persons

SECTION 163. (a) No person retired for service or disability and in receipt of a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

(b) Should any retired person, except persons retired for service prior to January 8, 1932, and persons retired because of disability incurred in the performance of duty, engage in a gainful occupation prior to attaining the age of sixty-two, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the compensation on the basis of which his pension or retirement allowance was determined.

The provisions of paragraph (b) of this section shall be inoperative during the existing war between the United States and the Axis Powers and for six (6) months after the termination of said war. [*Amended, 1945*]

Reading this section in connection with §§ 165, 166 and 167, it is clear that existing police officers will be members of the retirement system only if they were in active service as such on January 8, 1932. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

A captain of detectives in the police department, who after his retirement under the old Charter was holding the office of City Treasurer, but who relinquished his pension and his salary, could become a candidate for Treasurer under the new Charter, since the inhibition of this section applies only to members of the retirement system declared such by the new Charter. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

Inasmuch as a fireman's right to a pension does not become vested until the happening of the contingency upon which the pension becomes payable, the pension of a fireman who was appointed prior to the operative date of the present Charter, and who prior to that date had served a substantial part of the time required to entitle him to a pension was subject to the provision requiring a reduction of a pension when a retired person engaged in gainful occupation. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The 1945 amendment to the section providing that it "shall be inoperative" during the existing war, etc., is not retroactive, and applies only from the date of the amendment to six months after the end of the war. A contrary construction would probably result in a gift of public funds in violation of Const. art. iv, § 31. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The provision requiring the reduction of pensions when retired persons engage in gainful occupations is not subject to the objection that it is discriminatory and violates Const. art. i, § 11, by reason of the fact that by its terms it is inapplicable to persons over 62, those who retired on account of disability, or those under 62 whose income is not derived from gainful employment. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

Under § 163b, providing that when a retired person engaged in gainful employment the pension provided by contributions of the City and County shall be reduced to an "amount which . . . shall not exceed the compensation on the basis of which his pension or retirement allowance was determined," the judgment in a declaratory relief action is too limited if it fixes as a maximum the compensation the party received on his retirement, and should provide for a computation on the basis of his rank. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

Contributions to Retirement Fund

Section 164. The city and county shall contribute jointly with the members of the retirement system to meet the liabilities accruing under the system because of service rendered to the city and county by persons after becoming members of the system. Members of the system shall contribute not to exceed ten per cent of their salaries or wages, provided that members may, at their option, elect to contribute at rates in addition to those fixed as normal by the retirement board. The city and county shall contribute an amount equal to normal contributions of members as provided for in the preceding sentence, but the city and county shall not contribute any amount because of additional contributions by members.

of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance", "retirement allowance", "death allowance" and "death benefit".

"Final compensation" shall mean the average monthly compensation earnable by a member during the three years immediately preceding his retirement, or death before retirement.

For the purpose of the retirement system and of this section, the terms "member of the police department", "member of the department" or "member" shall mean any officer or employee of the police department whose employment therein began prior to January 1, 1900, or whose employment therein began or shall begin after that date, and was or shall be subject to the charter provisions governing entrance requirements for members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on the effective date hereof regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron. Any police service performed by such a member of the police department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

"Retirement board" shall mean "retirement board" as created in section 159 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural, and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. [*New section, 1949*]

SECTION 168.1.2. Any member of the police department who completes at least thirty years of service in the aggregate, regardless of age, or at least twenty-five years of service in the aggregate, and attains the age of fifty-five (55) years, said service to be computed under section 168.1.9, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-seven years during the twelve months ending June 30, 1949; the age of sixty-six years during the twelve months ending June 30, 1950, and thereafter, following the attainment of the age of sixty-five years. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in section 168.1.1, plus an allowance at the rate of one and two-thirds ($1\frac{2}{3}$) per cent of said final compensation, for each year of service rendered prior to attaining age sixty and after qualifying as to age and service for retirement. Any member may retire, regardless of age, after rendering twenty-five years of service in the aggregate, computed under section 168.1.9, but in such event, his retirement allowance shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled at the date upon which he would qualify for retirement under the first sentence of this paragraph, deferred to that date. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 168.1.3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. [*New section, 1949*]

SECTION 168.1.3. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of bodily injury received in, or illness caused by performance of his duty, shall be retired, and if he is not qualified for service retirement, shall receive a retirement allowance, equal to seventy-five per cent of the final compensation of said member, as defined in section 168.1.1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 168.1.2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 168.1.2, but not less than fifty per cent of said final compensation. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 168.1.9, shall be retired upon an allowance of one and one-half per cent of the final compensation of said member, as defined in section 168.1.1, for each year of service, provided that said allowance shall not be less than thirty-three and one-third per cent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement. [*New section, 1949*]

SECTION 168.1.4. If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife, throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowance shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death. If death occurs prior to qualification for service retirement the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If he had retired prior to death for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under section 168.1 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death. [*New section, 1949*]

SECTION 168.1.5. Upon the death of a member after retirement for service or because of disability which resulted from injury received in, or illness caused by the performance of duty, and if death shall result from other cause than such injury or illness, one-half his retirement allowance as it was at his death, shall be continued throughout life or until remarriage, to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of injury or onset of the illness which was incurred in performance of duty and which results in death, or if death does not result from such injury or illness, unless she was married to the member at least one year prior to his retirement. Persons heretofore or hereafter retired under other charter sections, as members of the police department at the time of retirement, shall be subject to the provisions of this section. [*New section, 1949*]

Section 168.1.6. That portion of any allowance payable because of the death or retirement of any member of said department, which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits, other than medical benefits, payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of any benefits, other than medical benefits, payable to or on account of such person under the said law of the State of California, and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits. [*New section, 1949*]

Section 168.1.7. If a member of the police department shall die, before retirement, from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 168.1.4 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, the sum of five hundred dollars shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members. [*New section, 1949*]

SECTION 168.1.8. Should any member of the department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 168.1.9, to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be, to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the police department, and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues. [*New section, 1949*]

SECTION 168.1.9. The following time shall be included in the computation of the service to be credited to the member for the purposes of determining whether such member qualifies for retirement, and calculating benefits, excluding, however, any time the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(1) Time during and for which said member is entitled to re-

ceive compensation because of services as a member of the fire or police department.

(2) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

(3) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments before July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under section 168.1.3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after June 30, 1949, and receives compensation because of services rendered in other offices and departments.

(4) Time during which said member is absent from a status included in paragraphs (1), (2) or (3) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 161 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account. [*New section, 1949*]

SECTION 168.1.10. All payments provided for persons who are members under section 168.1 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution of each member shall be based on his age taken to the next lower complete quarter year, (a) at the date he became a member under sections 165 or 168, in the case of persons who are members under these sections or (b) at July 1, 1945, in the case of persons who are members under section 166, and his age taken to the next lower completed quarter year, when he entered the police department, or (c) on his age at the date he becomes a member under section 168.1, in the case of persons who become members on or after July 1, 1945, without credit

for services counted under section 168.1.9. The age of entrance into the police department shall be determined by deducting the members service credited under section 168.1.9 as rendered prior to the date upon which his age is based for determination of the rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 168.1, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 168.1.2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, without discount of allowance, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed ten per cent.

(2) The dependent rate of contribution of each member which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under section 168.1.2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 168.1.5, after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement from disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between ten per cent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under section 168.1, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in sections 168.1.7, 168.1.8, and 168.1.9.

(4) Contributions based on time included in paragraphs (1), (2), (3) and (4) of section 168.1.9, and deducted prior to July 1, 1945, from compensation of persons who become members under section 168.1, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(6) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 168.1.10 to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1), section 168.1.10, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective

members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 168.1, said percentage to be the ratio of the value on July 1, 1945, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said systems are included. Nothing in this section shall affect the obligation of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county. [*New section, 1949*]

SECTION 168.1.11. Upon the completion of the years of service set forth in section 168.1.2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said section 168.1.2, and nothing shall deprive said member of said right. [*New section, 1949*]

SECTION 168.1.12. No person retired as a member under section 168.1 after June 30, 1945, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Notwithstanding any provision in this charter to the contrary, should any such retired person, except persons retired prior to July 1, 1949, because of disability which resulted from injury received in, or illness caused by the performance of duty, engage in a gainful occupation prior to attaining the age of sixty, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the amount of the compensation earnable at the time he engages in the gainful occupation, by the member if he then held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired, immediately prior to its abolition.

The effective date of this amendment shall be the first day of the month following ratification by the State Legislature. [*New section, 1949; amended, 1949*]

SECTION 168.1.13. Any section or part of any section in this charter, insofar as it should conflict with these sections 168.1, 168.1.1, 168.1.2, 168.1.3, 168.1.4, 168.1.5, 168.1.6, 168.1.7, 168.1.8, 168.1.9, 168.1.10, 168.1.11, 168.1.12, 168.1.13 or 168.1.14, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1949*]

SECTION 168.1.14. The amendment of section 168.1, and sections 168.1.1, 168.1.2, 168.1.3, 168.1.4, 168.1.5, 168.1.6, 168.1.7, 168.1.8, 168.1.9, 168.1.10, 168.1.11, 168.1.12, 168.1.13, and 168.1.14, contained in the proposition therefor submitted to the electorate on November 2, 1948, shall take effect on the first day of July, 1949. [*New section, 1949*]

Physical Disability.—Under a charter provision (Long Beach Charter, § 187(3))for a retirement pension when a member of the police or fire department shall become physically disabled or by reason of bodily injuries received in, or by reason of sickness caused by the discharge of duties or shall become so physically or mentally disabled as the result of injury or sickness as to render necessary his retirement from active service, it is not necessary that the member to become eligible for retirement be or become permanently disabled, nor that the injuries received be of such character at the time they were received as to render necessary retirment. **Tyra v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

Effect of Resignation.—When the right of a police officer to a pension becomes vested by the happening of the contingency on which the pension becomes payable, his right is not defeated by his resignation. Nor is his right affected by the fact that his certificate of disability and medical reports are filed after such resignation where as to such certificate and reports the charter merely requires that they be filed prior to the granting of a pension. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, construing Long Beach Charter.

Under a charter providing for a pension "whenever any member [of the police department] shall become physically disabled" (Long Beach Charter, § 187(3)), the pension right becomes vested at least on the happening of the contingency on which the pension becomes payable, and is not forfeited by resignation before filing of the required certificates. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, under the Long Beach Charter.

A police officer's designation of his daughter "as executrix of my will" as beneficiary of his death benefit certificate in the Widows' and Orphans' Aid Association is sufficient evidence to support a court's finding that the daughter takes in her character as executrix, with the result that she must list the benefit as an asset of the estate. **Reade Estate** (1948) 31 Cal. (2d) 669, 191 Pac. (2d) 745.

Workmen's Compensation.—The pension provision of a city charter (Long Beach Charter, § 188) to the effect that it is intended to be in lieu of and take the place of the Workmen's Compensation Act, and that a person applying a pension waives all provisions of such act, does not apply to the converse situation, and one applying for workmen's compensation does not on that account waive his right to a pension. **Larson v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 60, 162 Pac. (2d) 33.

Where under a charter the acceptance of workman's compensation does not constitute a waiver of pension rights, the acceptance of such compensation does not effect a pro tanto reduction of pension benefits. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, under the Long Beach Charter.

Under a charter providing that the provision for police pension is intended to be in lieu of the Workmen's Compensation Act, but not providing that the Workmen's Compensation Act is to be in lieu of and in place of pension provisions, one's acceptance of workman's compensation does not constitute a waiver of his pension rights and does not work a reduction pro tanto of his pension benefits. **Holt v. Board of Police and Fire Pension Commissioners** (1948) 86 Cal. App. (2d) ...... (86 ACA 743), 196 Pac. (2d) 94, construing Long Beach Charter.

Mandamus.—On refusal of a pension board to acknowledge a widow's right to a pension, she may bring an action of mandamus to review the board's decision and to establish her status as a pensioner as a matter of law. **Dillon v. Board of Pension Commissioners of Los Angeles** (1941) 18 Cal. (2d) 427, 116 Pac. (2d) 37, 136 A.L.R. 800.

Statute of Limitations.—Under a charter provision requiring a civil service commission to order payment of a pension whenever a member of a department should become so physically or mentally disabled as the result of injury as to render his retirement necessary (Long Beach Charter, § 187(3), the duty of the commission does not attach and the right to a pension does not accrue, until it determines the result of the injury, the condition of the employee and the necessity for retirement; and in the absence of a provision limiting the time with relation to any event within which the employee must file his request, the statute of limitations does not commence to run until the commission makes such determination or arbitrarily refuses to act. **Tyra v. Board of Police and Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710.

The fact that a city as a self-insurer under the Workmen's Compensation Act voluntarily paid an employee compensation thereunder does not establish that his injuries were such as to render necessary his retirement, within the meaning of a charter pension provision, so as to start the statute of limitations running. **Tyra v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

Where under a charter the right to a retirement pension does not accrue until a determination by the commission of the effects of an injury, the limitation period is not commenced by the mere filing of the required certificates which are merely the necessary evidentiary justification for action by the commission. **Tyra v. Board of Police and Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710, under Long Beach Charter.

A finding of the Industrial Accident Commission, made more than five years after the happening of an accident, that the injuries suffered by the employee "eventually resulted in a permanent disability of 100%" does not establish when his injuries became such as to render necessary his retirement. **Tyra v. Board of Police and Fire Pension Commissioners** (1945) 71 Cal. App. (2d) 50, 162 Pac. (2d) 35.

The cause of action to establish the right of a policeman's widow to a pension accrues to her at the time of the death of her husband, and the statute of limitations is a bar to an action of mandamus brought for such purpose after the denial of her claim if it is not instituted within three years after the death of her husband, exclusive of the period of the pension board's deliberations. (Code Civ. Proc. §§ 312, 338.) **Dillon v. Board of Pension Commissioners of Los Angeles** (1941) 18 Cal. (2d) 427, 116 Pac. (2d) 37, 136 A. L. R. 800.

Estoppel to Assert Statute of Limitations.—A city pension board is estopped from interposing the statute of limitations as a bar to a proceeding to order retirement of an employee on a pension when the employee's delay in proceeding was induced by the erroneous position of the commission, amounting to a departmental ruling, that he was not entitled to a pension so long as he received workmen's compensation. **Tyra v. Board of Police and Fire Pension Commissioners** (1948) 32 Cal. (2d) 666, 197 Pac. (2d) 710, under the Long Beach Charter.

SECTION 168.2. *No section for this number.*

Pension Provisions—Dependents of Members of Fire and Police Departments Killed in Line of Duty

SECTION 168.3. If a member of the fire or police departments, as defined in the charter for the purposes of the retirement system, or a member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fireboats, marine engineer of fireboats, or marine fireman of fireboats, all of whom are hereinafter designated as members, shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a monthly allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death, and if he had retired prior to death, the allowance payable shall be equal to the retirement allowance of the member. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than one-half of such average monthly compensation. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

Benefits provided under this section shall be in lieu of all benefits payable under other sections of the charter upon death of such member resulting from an injury received in, or illness caused by the performance of duty, except the five hundred dollar benefit payable upon death after retirement.

Contributions to provide the allowance under this section shall be made to the San Francisco City and County Employees' Retirement System by the city and county. The amount of the contribution shall be determined and payment to the system shall be made in the same manner as contributions are determined and paid which are required for other benefits provided under the retirement system for the respective groups of members who are included under this section.

Notwithstanding any other provisions of this charter, any member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fire boats, marine engineer of fire boats, or marine firemen of fire boats, who becomes incapacitated for performance of his duty by reason of any bodily injury received in or illness caused by the performance of his duty, shall receive the same benefits as members of the fire department who are members of the retirement system under section 171 of the charter. [*New section, 1947*]

he was retired, immediately prior to its abolition. [*New section, 1949*]

Section 171.1.13. Any section or part of any section in this charter, insofar as it should conflict with these sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13 or 171.1.14, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1949*]

Section 171.1.14. Sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13, and 171.1.14, contained in the proposition therefor submitted to the electorate on November 2, 1948, shall take effect on the first day of July, 1949. [*New section, 1949*]

Compensation Insurance Payments

Section 172. The benefit provisions of the workmen's compensation insurance and safety law of the State of California, as they affect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be re-insured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 35 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special police officer shall receive the benefits of such compensation law from any other source. [*Amended, 1937*]

> A patrol special police officer appointed pursuant to § 35.10 is an employee of San Francisco within § 172, and the evidence supported a finding that his fatal injury arose out of and in the course of employment by the City where it appeared that he was apparently engaged in attempting to prevent the commission of a crime or to apprehend a criminal when he was killed. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207.
>
> The evidence supported a finding that a special patrol officer was fatally injured in the course of his employment by the City where it appeared that he was fatally injured while en route from the scene of an emergency policing assignment to his routine duties. **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

Mrs Moses

FIFTH SUPPLEMENT TO 1948 EDITION OF CHARTER

This supplement contains:

1. History of Charter Legislation.
2. New and amended Charter sections.
3. Supplemental Index and Table of Deletions.
4. Supplemental Digest.

SUGGESTIONS FOR USE

In the front of the book substitute the new "History of Charter Legislation" for the one presently contained therein.

Remove all of the Charter sections, or parts thereof, superseded by the Charter sections contained in this envelope and, if it is desired to retain such superseded sections, place them at the back of the book behind the division sheet entitled "Superseded Sections".

In the back of the book, behind each subject division sheet, substitute new "Supplemental Index" and "Supplemental Digest" for those presently contained therein.

John R. McGrath
Clerk of the Board of Supervisors

January, 1943, shall not expire at twelve o'clock noon on said date, but shall continue until the 8th day of January, 1944, and the office of assessor shall be filled at the general municipal election in 1943, for a three year term from said date, and said office of assessor shall again be filled at the general election in 1946 for a four year term from said date, and at the general election in each fourth year thereafter. [*Amended, 1941*]

Officers formerly elective and now appointive as within civil service, see § 62.

Irrespective of the question whether a charter provision that the term of an elective officer continues until his successor qualifies is applicable to an appointee to such office holding over, his term continues by virtue of the general rule to that effect which applies in the absence of statute or charter providing otherwise, and also by virtue of Gov. Code, § 1302, when this provision is made applicable by a charter provision making applicable to a city the general laws not inconsistent with the charter. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

Absence from State, and Vacancies

SECTION 6. No officer of the city and county, except members of the police department acting under orders of the chief thereof, shall absent himself from the state, except by permission of the mayor and the board of supervisors. Violation of this section shall be sufficient cause for removal of any officer violating the same.

An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a crime involving moral turpitude, or of an offense involving a violation of his official duties, or is removed from office, or ceases to be a resident of the city and county, or neglects to qualify within the time prescribed by law, or within twenty days after his election or appointment, or shall have been absent from the state without leave for more than sixty consecutive days.

Qualifications of Officers and Employees

SECTION 7. No person shall be a candidate for any elective office, nor shall be appointed as a member of any board or commission or as an officer of the city and county unless he shall have been a resident of the city and county for a period of at least five years and an elector thereof for at least one year immediately prior to the time of his taking office, unless otherwise specifically provided in this charter. All employees of the city and county shall be citizens and shall have been residents thereof, for at least one year prior to the appointment, unless otherwise specifically provided in this charter, and members of the fire and police departments shall be citizens and shall have been residents of the city and county for at least five years next preceding appointment, and every elected officer, member of any board or commission and employee, including members of the fire and police departments, shall continue to be a resident of the city and county during incumbency of office or employment, and upon ceasing to be such resident, shall be removed from office or employment; provided that where competent citizens who are residents of the city and county cannot be secured to fill positions outside of the city and county, then non-resident citizens may be appointed to fill such positions; provided, further, that employees who at the time of original appointment to positions in city and county service were or at such time are residents of the city and county, and who now or at any time occupy positions the usual and major duties of which require their presence daily at places which are outside the city and county, may establish and continue residence in any county convenient to such place of duty for the duration of their employment at any such places, and shall have all rights in relation to any such employment or to any other position in any department of the city and county, including but not restricted to all rights respecting participation in examinations for appointment to, or occupancy of such other positions, to the same extent as though they had continued to be residents of the city and county during all of such time; and provided, also, that positions requiring expert or technical training may, on the recommendation of the department head and the mayor, and with the approval of the civil service commission and the board of supervisors, be exempted from the requirements of this section. A "resident" within the intent and purpose of this section, means one who actually lives within the city and county and maintains an abode therein, where such resident with his family, if any, customarily spends the night, provided, however, that residence outside the confines of the city and county for a period not to exceed three months in any calendar year, or absence of a resident from the city and county upon any bona fide journey, whether for business or pleasure and for whatever length of time, or absence of a resident while in the performance of any duties as an elected or appointed official or employee of the State of California or the government of the United States, shall not be within the contemplation of this section. Any officer or employee except elected officers of the city and county, however, may live outside the City and County of San Francisco upon authorization granted exclusively by the retirement board, if on the basis of medical and any other available information, that board believes that such authorization should be granted on account of the ill health of said officer or employee or the ill health of a member of the immediate family of said officer or employee. Such authorization and any modification or termination thereof shall be filed in the office of the civil service commission. Officers and employees shall make application for such authorization directly to the retirement board, on forms provided by the retirement board, without any requirement of prior application to or permission of any officer, board or commission. At the same time they shall file a copy of such application with their respective department heads, who shall have ten days thereafter in which to file any objections thereto with the retirement board. The retirement board may require medical examinations and such information in regard to any such application as it shall deem reasonable. Such authorization shall be terminated after sixty days notice, by the retirement board when in its opinion the authorization no longer is justified: and the retirement board may at any time, and from time to time shall, require such medical examinations and information as it may deem reasonable to determine the continued existence of such justification. Non-compliance with requests of the retirement board or any physician designated by it, shall be good cause for denial or termination of such authorization.

The retirement board shall review, without unnecessary delay, all authorizations to live outside the City and County of San Francisco which have been granted by the director of public health and which are now in effect. The board shall have the same powers in respect to such authorizations as are provided herein in respect to authorizations granted by it. [*Amended, 1933; 1951; 1952*]

Both civil service and non civil service employees are included in the requirements of this section as to citizenship and one year's residence. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

This section has reference to appointees, not to examinees, and so an applicant for civil service examination may not successfully invoke its provisions to justify his failure to comply with the residential requirement of § 144 of the Charter. **Dierssen v. Civil Service Commission** (1941) 43 Cal. App. (2d) 53, 110 Pac. (2d) 513.

School teachers and employees of the school department are not included in the requirements as to residence laid down in this section for the employees of the City and County of San Francisco. **Lansing v. Board of Education** (1935) 7 Cal. App. (2d) 211, 45 Pac. (2d) 1021.

Cited without particular application. **Terry v. Civil Service Commission of San Francisco** (1952) 108 ACA 1009, 240 Pac. (2d) 691.

Bonds of Officers and Employees

SECTION 8. Unless otherwise provided in this charter, such officers and employees as may be specified by ordinance, shall give bond in such amounts as may be required by the ordinance, provided that the minimum amount of the bond to be furnished by the controller be $100,000; by the tax collector $100,000; by the county clerk $50,000, and by the public administrator $50,000. The board of supervisors shall provide by ordinance the terms, form and conditions of all such bonds and for the filing thereof. The sureties on such bonds shall be such as specified by and approved in the manner provided by ordinance. The board of supervisors may, by ordinance, provide for group bonding of officers and employees. The premiums on all official bonds shall be paid by the city and county. [*Amended, 1946*]

When a charter provides for an official bond of an officer in such penal sum as may be fixed by ordinance, and in a later provision in a specified penal sum, inasmuch as the two provisions are in direct conflict, the later in point of position is controlling. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

By virtue of a charter provision making general laws applicable to a city and Gov. Code, § 1504, the obligation of a surety on an official bond continues when an officer, elected as his own successor, fails to qualify for the successive term and yet continues in the duties of the office. **Hartford Acc. & Indem. Co. v. Tulare** (1947) 30 Cal. (2d) 832, 186 Pac. (2d) 121, construing Charter of Tulare.

Powers Vested in Board of Supervisors

SECTION 9. The powers of the city and county, except the powers reserved to the people or delegated to other officials, boards or commissions by this charter, shall be vested in the board of supervisors and shall be exercised as provided in this charter. The board of supervisors shall, ex officio, be the board of equalization for the city and county. It shall be the duty of the board of supervisors to canvass the vote cast at each election in the city and county, and certify the official count of such balloting. The supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the city and county and shall fix rates and schedules of compensation therefor in the manner provided in this charter. On the recommendation of the mayor and the chief administrative officer, the board of supervisors may create or abolish departments which are now or may hereafter be placed under the chief administrative officer or under commissions appointed by the mayor.

The board of supervisors may, by ordinance, confer on any officer, board or commission such other and additional powers as the board may deem advisable.

The board of supervisors, by ordinance, may provide medical care, hospitalization, compensation and such other benefits as the board may deem necessary for regularly authorized volunteer civilian defense workers suffering injury arising out of and in the course of their activities as such civilian defense workers.

Whenever the board of supervisors by ordinance shall declare that the public interest demand a night university, municipally established, maintained and controlled, they shall submit the proposal to the people, and if approved by a majority of the electors voting thereon, the board of supervisors may by ordinance provide for the establishment, maintenance and control of such a night university having courses of instruction in advance of the instruction maintained in high schools or junior colleges. Said university shall have the power to grant academic degrees and shall be open to any resident of the city and county qualified to enter and pursue the courses of instruction therein given. [*Amended, 1943*]

A contract for services of a civil engineer for a 5-year period to furnish information respecting transit and traffic conditions does not provide an invalid duplication of functions and duties of existing officers. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

The Charter imposes no limitation on the powers of the Supervisors to plan, study and legislate for civic betterment and improved conditions of municipal affairs. **San Francisco v. Boyd** (1941) 17 Cal. (2d) 606, 110 Pac. (2d) 1036.

Only those powers of the city which are not reserved to the people or delegated to other officials, boards or commissions, are vested in the Board of Supervisors, to be exercised as provided in the Charter. **Kennedy v. Ross** (1946) 28 Cal. (2d) 569, 170 Pac. (2d) 904.

Quoted in **King v. Leavy** (1932) 124 Cal. App. 422, 427, 12 Pac. (2d) 661.

The grant of power under this section imposes limitations upon the Board; it withholds power which other provisions of the Charter give to "other officials, boards and commissions." **Butler v. San Francisco** (1951) 104 Cal. App. (2d) 126, 231 Pac. (2d) 75.

Cited without particular application. **Madison v. San Francisco** (1951) 106 ACA 277, 234 P2d 995.

Number, Compensation and Meetings of Supervisors

SECTION 10. The board of supervisors shall consist of eleven members elected at large, provided that for the period January 8, 1932, to January 8, 1934, the board shall consist of fifteen members. Each member of the board shall be paid a salary of twenty-four hundred dollars ($2,400) per year, and each shall execute an official bond to the city and county in the sum of five thousand dollars ($5,000).

At twelve o'clock noon on the 8th day of January next following their election, the newly elected and continuing members of the board of supervisors shall meet at the legislative chamber in the City Hall, and thereafter regular meetings shall be held as fixed by resolution. The supervisors constituting the new board shall, on January 8, 1932, and every second year thereafter, elect one of their number as president of the board for a two-year term. The president shall preside at all meetings, shall appoint all standing and special committees of the board and shall have such other powers and duties as the supervisors may provide.

The meetings of the board shall be held in the City Hall, provided that, in case of emergency, the board, by resolution, may designate some other appropriate place as its temporary meeting place. The board shall cause a calendar of the business scheduled for each meeting to be published and shall keep and publish a journal of its proceedings. Notice of any special meeting shall be published at least twenty-four hours in advance of such special meeting.

Suspension and Removal

SECTION 11. Any elective officer, and any member of the civil service commission or public utilities commission or school board may be suspended by the mayor and removed by the board of supervisors for official misconduct, and the mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the mayor shall immediately notify the supervisors thereof in writing and the cause therefor, and shall present written charges against such suspended officer to the board of supervisors at or prior to its next regular meeting following such suspension, and shall immediately furnish copy of same to such officer, who shall have the right to appear with counsel before the board in his defense. Hearing by the supervisors shall be held not less than five days after the filing of written charges. If the charges are deemed to be sustained by not less than a three-fourths vote of all members of the board, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the board of supervisors within thirty days after the filing of written charges, the suspended officer shall thereby be reinstated.

The mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the mayor so to act shall constitute official misconduct on his part.

Any appointee of the mayor, exclusive of civil service, recreation and park, and public utilities commissioners, and members of the school board, may be removed by the mayor. Any nominee or appointee of the mayor whose appointment is subject to confirmation by the board of supervisors, except the chief administrative officer and the controller, as in this charter otherwise provided, may be removed by a majority of such board and with the concurrence of the mayor. In each case, written notice shall be given or transmitted to such appointee of such removal, the date of effectiveness thereof, and the reasons therefor, a copy of which notice shall be printed at length in the journal of proceedings of the board of supervisors, together with such reply in writing as such official may make. Any appointee of the mayor or the board of supervisors guilty of official misconduct or convicted of crime involving moral turpitude must be removed by the mayor or the board of supervisors, as the case may be, and failure of the mayor or any supervisor to take such action shall constitute official misconduct on his or their part. [*Amended, 1935; 1949(2). See Sec. 11, Art. VI of the Constitution*]

LEGISLATIVE PROCEDURE

Clerk of the Board of Supervisors

SECTION 12. Subject to the civil service provisions of this charter the board of supervisors shall appoint a clerk, who shall be designated as clerk of the board of supervisors, provided, however, that any person who has performed the duties of clerk of the board of supervisors continuously for one year prior to the date of approval of this amendment by the electorate and who on said date shall be performing said duties, is hereby confirmed in said position and thereafter shall hold the same pursuant to said civil service provisions of this charter. The clerk shall, ex officio, be clerk of the board of equalization. The clerk shall have charge of the office and records of the board and its committees, and the personnel employed to handle the business, affairs and operations of the board, its committees and members when engaged in official duty. The clerk shall be the appointing officer for such personnel, subject to the civil service provisions of this charter. The clerk shall keep a journal of proceedings of the board and files of all ordinances and resolutions and properly index the same. He shall be responsible for the publication, as required by law, of ordinances, resolutions and other matters acted on by the board for which publication is specified. He shall have such other duties and responsibilities as the board shall prescribe. [*Amended, 1948*]

Action by Resolution or Ordinance

SECTION 13. Action by the board of supervisors shall be by ordinance or resolution in writing introduced by a member or by a committee of said board and passed or adopted by a majority of all the members of the board at each reading. Every legislative act shall be by ordinance. The enacting clause of all ordinances shall be, "Be it ordained by the people of the City and County of San Francisco." Every ordinance and resolution, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, and ordinances making annual or supplemental appropriations shall be confined to the subject of appropriations. Any ordinance enacting or revising and re-enacting a complete municipal code for the city and county, which code shall supersede or repeal all general ordinances prior thereto, shall be construed to be confined to a single subject.

If any subject is embraced in an ordinance and is not expressed in the title thereof, the ordinance shall be void only as to so much thereof as is not expressed in the title. Any ordinance may be amended by an ordinance amending the particular sections thereof.

An ordinance shall be passed by the board of supervisors only after reference to and report thereon from committee, unless it be an ordinance prepared and reported out by committee, and after two readings and votes at separate meetings of the board, which meetings shall be at least ten days apart; provided, however, that as to an emergency measure as defined in section 16, reference to committee or the readings and votes at separate meetings may be waived by a three-fourths vote of all members of the board. The existing or impending emergency as defined in such ordinance shall be declared by specific section in such emergency ordinance. No other resolution shall be adopted by the board of supervisors on the date of its introduction and without reference to committee, except by the unanimous consent of the supervisors present. The annual appropriation ordinance shall be passed only after two readings, not less than five days apart, and the second or final passage shall be not less than fifteen days after the introduction of each such ordinance.

No ordinance granting a franchise shall be finally passed within ninety days of its introduction.

Except as otherwise provided in this charter, or by ordinance, notice of the title or the purport and subject matter of each proposed ordinance which is introduced and referred to committee shall be published within three days after its presentation to the board and a copy of such proposed ordinance shall be kept available for inspection in the office of the clerk of the board. All ordinances shall be published upon passage for second reading. Emergency ordinances shall be published immediately on passage. Ordinances passed to codify, rearrange and publish existing ordinances, as provided for in section 17, shall not require publication. The term ''published'' as used in this charter shall mean publication in the official newspaper as required by charter. The official newspaper is hereby defined to be a daily newspaper of general circulation, published in the city and county and which has a bona fide daily circulation of at least 8,000 copies.

The vote on all ordinances and resolutions upon each reading shall be by ayes and noes. The vote by ayes and noes on all measures shall be recorded in the journal of the proceedings of the board. [*Amended, 1935*]

Resolution.—The Board of Supervisors could by resolution, approved by the Mayor, authorize contracts designed to put into effect the purposes and aims of the Housing Authorities Law. **Kleiber v. San Francisco** (1941) 18 Cal. (2d) 718, 117 Pac. (2d) 657.

Action designed merely to carry into effect law already enacted is administrative rather than legislative action and may be taken by resolution. **Kleiber v. San Francisco** (1941) 18 Cal. (2d) 718, 117 Pac. (2d) 657.

Any ordinance passed by a municipal corporation within the scope of the authority expressly conferred on it has the same force within its corporate limits as a statute passed by the Legislature has throughout the state. But an ordinance can no more change or limit the effect of the Charter than a statute can modify or supersede a provision of the Constitution. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

Compliance with Section.—No ordinance is valid unless and until the mandatory prerequisites to its enactment and performance are substantially observed. **Sullivan v. McKinley** (1939) 14 Cal. (2d) 113, 92 Pac. (2d) 892.

Although an ordinance is invalid if the mandatory prerequisites to its enactment are not substantially observed, it is sufficient if there is a substantial compliance with the prescribed procedural steps. **San Francisco v. Boyd** (1943) 22 Cal. (2d) 685, 140 Pac. (2d) 666.

Reference to Committee.—A resolution, as distinguished from an ordinance, need not be referred to a committee and come out of the committee before it can be considered. In the sentence, "no other resolution shall be adopted on the day of its introduction," the word "resolution" is an inadvertence and should be read "ordinance." **Skelly Estate v. San Francisco** (1937) 9 Cal. (2d) 28, 69 Pac. (2d) 171.

Exercise of powers of City and County to be by ordinance or resolution, see § 2.

Emergency measures, see also notes under § 16.

Emergency action by mayor without passage of ordinance, see notes under § 25.

Waiver of Statutes of Limitation

Section 13.1. Any ordinance or resolution waiving, or authorizing the waiving, by the city and county of the benefit of any statute of limitation of a state, or of the United States, available to the city and county in any action or proceeding against it shall require for its passage a three-fourths vote of all members of the board of supervisors on each reading. [*New section, 1949*]

Approval by Mayor—Reconsideration and Veto

Section 14. Each proposed resolution or ordinance voted on by the supervisors and failing of passage and each ordinance or resolution adopted by the supervisors shall, within twenty-four hours of such action, be transmitted to the mayor by the clerk of the board, with appropriate notation of the action of the board thereon. Any resolution acted upon by the board of supervisors by unanimous consent of those present on the date of the introduction of such resolution and any ordinance adopted by the board as an emergency measure shall be acted upon by the mayor within three days after receipt thereof by him from the clerk of the board. All other ordinances or resolutions shall be acted upon by the mayor within ten days of such receipt.

The mayor shall either approve each resolution or ordinance adopted by the supervisors by signing and returning same to the clerk of the board within the time limit, or he shall disapprove and veto any resolution or ordinance, or veto or reduce any separate appropriation item therein and shall return each such resolution or ordinance to the clerk of the board with his written objections within the time limit. His failure to make such return shall constitute approval and such ordinance or resolution shall take effect without the mayor's signed approval. The clerk of the board shall note such fact on the official copy of such resolution or ordinance. If any separate appropriation item in any resolution or ordinance is vetoed or reduced by the mayor as herein provided, the remainder of any such ordinance or resolution may be approved by the mayor and, if not specifically approved by the mayor, shall take effect without such approval and shall be so noted by the clerk of the board.

The board of supervisors may reconsider any resolution or ordinance vetoed or disapproved, or any separate appropriation item vetoed or reduced by the mayor, and if, after such reconsideration, two-thirds of all the members of the board shall vote in favor of passage thereof, it shall become effective notwithstanding the mayor's veto. If a larger vote is required for the adoption of a measure by the provisions of this charter, such larger vote shall be required to overcome the veto of the mayor. The vote of reconsideration of each such vetoed resolution, ordinance or separate appropriation item therein shall be taken at the convenience of the board. If the ordinance, resolution or separate appropriation item is not passed over the mayor's veto within thirty days, the measure or item shall be lost.

In the event of any absence of the mayor for which he or the board of supervisors has failed to designate an acting mayor, no resolution or ordinance adopted by the board of supervisors shall take effect by reason of the failure of the mayor to approve, or disapprove, and return such resolution or ordinance within the time limits applicable thereto, and, in such case, the time periods or limitations as fixed by this section shall not start until an acting mayor is appointed by the mayor or elected by the supervisors, as in this charter provided, or the return of the mayor.

Any proposed resolution or ordinance voted on by the board of supervisors and failing of passage shall be reconsidered by the board on the written request of the mayor, stating his reasons therefor, filed with the clerk of the board by the mayor within ten days of the board's action on such resolution or ordinance. The board shall reconsider such measure at its convenience, but not later than thirty days after the filing of the mayor's request therefor.

Record, Publication and Effect of Ordinances and Resolutions

SECTION 15. All ordinances, after final passage or upon their becoming effective shall be certified by the clerk of the board and recorded in a book kept for that purpose, and resolutions adopted shall be certified and recorded in like manner. Except in case of an emergency measure passed and not previously published, and except as otherwise specified in this charter, publication of ordinances and resolutions in full shall not be required after final passage. Notice that an ordinance or resolution has passed or become final shall be published once within five days of such final passage. To amend an ordinance which has proceeded to second reading shall require publication of the ordinance as amended and proceeding de novo.

An ordinance enacted with all the formalities required by law does not cease to be a valid ordinance by virtue of the failure of the proper officials to publish it periodically pursuant to statutory requirement. People v. Crittenden (1949) 93 ACA Supp. 369, 209 Pac. (2d) 161.

Emergency Measures and Effective Date of Ordinances

SECTION 16. No ordinance which is subject to the referendum provisions of this charter shall become effective until thirty days after its passage. Ordinances granting any public utility franchise or privilege shall not become effective until sixty days after their passage. Other ordinances shall not become effective until ten days after their passage unless enacted by a three-fourths vote of all the members of the board as an emergency measure as defined in this section. No ordinance affecting franchises, grants, bond issues or the sale, lease or purchase of land shall ever be passed as an emergency measure, and the people by initiative or referendum ordinance may further restrict the matters that may be passed as emergency measures. Immediate necessary preservation of public peace, property, health or safety, provision for the uninterrupted operation of any city and county department or office, or action required to comply with time limitations as established by law, shall be emergencies within the meaning hereof; provided, however, that such emergency shall actually exist and shall be specifically stated and defined in such ordinance, and shall be specifically voted on as provided in section 13 of this charter. [*Amended, 1935*]

Although the Charter can extend the limitations on the powers of the Supervisors, and thereby add to the reserved powers in the electors, it cannot by definition or otherwise limit the reserved power of referendum defined in Const. art. iv, § 1. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

The constitutional provision that no measure creating or abolishing any office or changing the salary, term or duties of any officer shall be construed as an emergency measure (Const. art. iv, § 1) defined in part what the reserved power of referendum shall be, and any ordinance in conflict therewith is invalid. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

The constitutional reservation of referendum (Const. art iv, § 1) is read into and becomes a part of the Charter with the same effect as though it had been expressly incorporated therein, in view of Const. art. xi, § 8, permitting a city or city and county to frame a Charter for its own government "consistent with and subject to this Constitution." **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

A police captain is a public officer within Const. art. iv, § 1, declaring that no measure creating or abolishing any office, or changing the salary, term or duties of any officer shall be construed to be an emergency measure. Accordingly, an ordinance passed as an emergency measure is void where it creates additional positions as captains of police, and a further ordinance purporting to appropriate funds to pay the salaries attached to such offices should fall with it. **Brown v. Boyd** (1939) 33 Cal. App. (2d) 416, 91 Pac. (2d) 926.

Emergency action of mayor without passage of ordinance, see notes under § 25.

Codification and Rearrangement of Ordinances

SECTION 17. Ordinances previously adopted and continuing in force may be codified and rearranged, and thereupon shall be published in book form. Provision for codification and rearrangement may be made in one ordinance containing one or more subjects. Such publication shall constitute publication of the ordinance or several ordinances contained in each book or pamphlet so published. Any such publication shall contain a joint certificate of the mayor, the clerk of the board of supervisors and the city attorney of the correctness of such arrangement and publication. With any publication of the charter, there shall be included initiative ordinances and digests of reported court decisions relating to said charter and ordinances.

to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by section 153 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

Any member assigned to two-wheel motorcycle traffic duty shall receive $15 per month in addition to the compensation to which he would otherwise be entitled.

This section shall become effective on the 1st day of July, 1951. [*New section, 1943; amended, 1946; 1947; 1948; 1949; 1951*]

SECTION 35.5½. (a) The word "member" or "members" as used in this section shall mean the members of the several ranks in the police department set forth in section 35.5 of this charter.

(b) The basic week of service for each member shall be forty hours and the annual compensation set forth in section 35.5 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the police commission public interest or necessity requires the services of any member to serve in excess of the basic week of service during any week, the said police commission may authorize the chief of police to permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this sub-section. For service performed in excess of the basic week, members shall be compensated on the basis of straight time in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in section 35.5, or in lieu thereof equivalent time off duty with pay.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in section 151 of this charter, or the normal days off per week; provided, however, that when in the judgment of the police commission public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the said commission may authorize the chief of police to permit said member to serve during said vacation, or part thereof, or normal days off, and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of straight time in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensations provided therefor in section 35.5

(f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part I, of the San Francisco Municipal Code, approving rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignments, prior to going on duty, the said commission may designate a period not to exceed fifteen minutes in any one day for said reporting, and the said periods of fifteen minutes need not be compensated for in money or in time off with pay.

(h) Notwithstanding the provisions of any of the foregoing subsections, the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the board of supervisors pursuant to the provisions of section 151 of the charter as additional days off with pay. Members required to perform police service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time off duty with pay in the judgment of the police commission.

(i) This section shall become effective on the first day of the month immediately following the date of ratification. [*New section, 1944; amended, 1947; 1948; 1949*]

SECTION 35.6. The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place in which the business is conducted or maintained is not a proper or suitable place in which to conduct or maintain such business or calling. [*New section, 1943*]

The Chief of Police may revoke a permit only for good cause as set forth in the section. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

The action of the Chief of Police was not to issue a new permit to operate taxicabs, necessitating a certificate of public necessity and convenience, but a revival where, following a request for a temporary cancellation of permits for a specified number of taxicabs and an order of the Board of Police Commissioners that the permits were "cancelled," the Chief of Police declared that the permit has been and was in full force, and the evidence sustained such conclusion of the Board of Permit Appeals. **Greif v. Dullea** (1944) 66 Cal. App. (2d) 986, 153 Pac. (2d) 581.

Resolution of Police Commission authorizing Chief of Police to revoke license for refusal to return stolen property, see notes under § 24.

SECTION 35.7. In the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority, the chief of police, in the lawful exercise of his functions, shall have all the powers that are now or that may be conferred on the sheriff by the laws of this state. [*New section, 1943*]

SECTION 35.8. The supervisors shall provide in the annual budget, an amount not to exceed in any one fiscal year the sum of $10,000 to be known as the contingent fund of the chief of police. The chief of police may from time to time, disburse such sums for contingent expenses of the department as in his judgment shall be for the best interests of the city and county, and the police commission shall allow and order paid out of such contingent fund, upon orders signed by the chief of police, such amounts as may be required. [*New section, 1943*]

SECTION 35.9. At his discretion or upon the petition of any person, firm or corporation, the chief of police may appoint, and at his pleasure remove special police officers. Such officers shall be subject to all the rules and regulations of the department. [*New section, 1943*]

SECTION 35.10. The police commission may appoint patrol special officers and for cause may suspend or dismiss said patrol special police officers after a hearing on charges duly filed with the commission and after a fair and impartial trial. Each patrol special police officer shall be at the time of his appointment not less than twenty-one years of age nor more than forty years of age and must possess such physical qualifications as may be required by the commission. Age qualifications shall not apply to present patrol special police officers acting as such at the time of the effective date of this amendment nor to their reappointment. Patrol special police officers who are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by said commission or the legal heirs or representatives of said owners, may dispose of their interest in said beat or territory to a person of good moral character, approved by the police commission and eligible for appointment as a patrol special police officer. [*New section, 1943*]

A patrol special police officer appointed pursuant to the section is an employee of San Francisco within § 172. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207; **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

SECTION 35.11. On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance. [*New section, 1943*]

SECTION 35.12. The chief of police shall have the power, by regulation, to provide for the care and restitution of property that may come into possession of any officer or employee thereof, and the sale at public auction of all such unclaimed property, as well as the disposition of such property as shall consist of weapons or articles used or that may be used in the commission of crime, or the sale or disposition of which is prohibited by law. [*New section, 1943*]

SECTION 35.13. This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. [*New section, 1943*]

The provision of the 1943 amendment that the amendment "shall become effective when the joint resolution approving such amendment is filed with the Secretary of State and the Board of Supervisors has appropriated funds necessary in connection therewith, but not later than July 1, 1943," had the effect of deferring the effective date until the Board of Supervisors had appropriated the funds. **Callahan v. San Francisco** (1945) 68 Cal. App. (2d) 286, 156 Pac. (2d) 479.

(h) The provisions of this section shall continue in force for a period of six (6) months after the termination of the present war between the United States and the axis powers. [*New section, 1944*]

SECTION 36.1½. Subject to the provisions of section 20 of the charter governing the appointment and removal of non-civil service officers, assistants and employees, and without competitive examination, the chief of department shall have the power to appoint, from among the members of the department having the rank of first or second assistant chief of department, a deputy chief of department and, from among the members of the department having the rank of battalion chief, a secretary to the chief of department.

This section shall become effective on the first day of July, 1951. [*New section, 1948; amended, 1951*]

SECTION 36.2. [*New section, 1944; repealed, 1946*]

Fire Marshal

SECTION 37. The chief of the fire department, with the approval of the fire commission, may appoint a fire marshal and assistants on the recommendation of the Underwriters Fire Patrol of San Francisco, to serve without compensation from the city and county. The board of supervisors may empower the fire marshal to sell property saved or salvaged from any fire and for which no owner can be found. The fire marshal may call upon police officers to assist in the protection or salvaging of property and shall have such other powers and duties as by ordinance may be prescribed relative to the protection of property at fires and the storage of property salvaged therefrom. He shall have such duties appertaining to the enforcement of laws relative to the storage, sale and use of oils, combustible materials and explosives as the fire commission by rule, or the supervisors by ordinance, may prescribe.

Fire Prevention

SECTION 38. The bureau of fire prevention and public safety under the jurisdiction of the fire commission is hereby established. The commission shall detail to said bureau from the uniformed force of the department an officer to have charge of said bureau and such other personnel as it may deem necessary, who shall be paid the salary or salaries for their respective ranks in the fire department. The bureau shall inspect all structures and premises to determine whether or not compliance is being had with statutes and ordinances relative to fire prevention, fire protection and fire-spread control, and the protection of persons and property from fire. It shall enforce said statutes and ordinances and shall report violations to departments having jurisdiction.

The bureau shall examine the application, plans and specifications for the erection, and for alterations or repairs estimated to exceed $1,000 in cost, of any structure or premises subject to the statutes and ordinances referred to in this section. The bureau shall by written report, filed with the superintendent of building inspection, approve such plans and specifications, or report to said superintendent the particulars wherein non-compliance exists, and upon modification of the application, plans and specifications to comply therewith, the bureau shall inform said superintendent of its approval. No permit for alteration or repair exceeding $1,000 in cost, or for erection, shall be issued unless said approval is given.

The fire commission, relative to permits subject to issuance or revocation by the chief engineer of the fire department, shall, by regulation, prescribe such duties of the bureau of fire prevention as it shall deem appropriate. Any structure or premises wherein there exists any violation of statutes and ordinances referred to in this section, or which is maintained or used in such manner as to endanger persons or property by hazard of fire, explosion or panic and any structure or premises hereafter constructed, altered or repaired in violation of said statutes and ordinances is hereby declared to be a public nuisance, and it shall be the duty of the bureau to prosecute abatement proceedings.

An appeal and advisory board is hereby created, consisting of the chief engineer of the fire department, who shall be the chairman, the fire marshal, and the heads of the bureau of building inspection and the department of electricity, and a lay member to be appointed by the mayor for a four-year term. Said board shall serve without compensation.

An appeal may be taken from any act, determination or order of the bureau, performed under this section, by filing a written appeal with the appeal and advisory board.

Pending action on such appeal any construction, alteration or repair, embraced therein, may proceed if a building permit therefor has been issued, but no such permit may be issued while action on an appeal is pending. No certificate of completion or occupancy shall be issued by any officer or employee until said appeal has been determined. The advisory and appeal board may affirm, reverse or modify the act and determination of the bureau. If the appeal is determined adversely to the appellant, said structure or premises shall be made to comply with such decision. It shall require four votes of the board to reverse or modify the act, order or determination for the bureau.

Salvage Corps

SECTION 38.1. There is hereby created in the San Francisco fire department a division to be known as the salvage corps.

The duties of said salvage corps shall be the protection of property, during the period of any fire and immediately after said fire, from damage by smoke, water or flames. Said salvage corps shall be under the jurisdiction of the fire commission of the City and County of San Francisco. The personnel of said salvage corps shall not be transferred to any other branch or division of the fire department but shall at all times be subject to the orders of the chief engineer of the department in so far as actual service is concerned. The personnel of said salvage corps may be increased in accordance with the fiscal and budgetary procedure provided for in the charter, but members of any other branch or division of said fire department shall not be transferred to said salvage corps except after examination and certification as to eligibility by the civil service commission.

All persons employed in the uniformed force of the corporation known as the Underwriters' Fire Patrol of San Francisco, on the effective date of this amendment and who have been so employed for a period of six months next before the effective date of this amendment shall become members of said salvage corps and shall be deemed appointed as such in accordance with the civil service provisions of the charter and shall thereafter be entitled to all of the benefits thereof. Any person heretofore employed in the uniformed force of said Underwriters' Fire Patrol of San Francisco who has been granted a leave of absence for military purposes and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six months next before the granting of said leave of absence, shall, on the expiration of his said leave, become a member of said salvage corps and also shall be deemed appointed thereto pursuant to the civil service provisions of the charter and entitled to all of the benefits thereof.

All persons who, on the effective date of this amendment, shall be serving as officers in said uniformed force of said Underwriters' Fire Patrol of San Francisco and who have been so serving for a period of six months prior thereto, shall continue to occupy their respective official positions, with the exception that such persons as may be serving in the position of sergeant shall become lieutenants in said salvage corps and the position of sergeant shall no longer exist.

The officers and members of said salvage corps shall receive respectively the salaries provided for captains, lieutenants and hosemen provided by section 36 of the charter and for the purpose of determining the salaries of said hosemen, service rendered in the uniformed force of said Underwriters' Fire Patrol of San Francisco shall be deemed as service rendered in the service of the City and County of San Francisco.

Upon the actual taking over of the employees of said Underwriters' Fire Patrol of San Francisco, the members thereof coming into the employment of the City and County of San Francisco shall become members of the San Francisco city and county retirement system and shall be entitled to the benefits thereof and subject to the obligations thereof pursuant to the provisions of section 165 of the charter.

All employees hereafter added to said salvage corps, including officers appointed thereto, other than those who may have been serving in the uniformed forces of said Underwriters' Fire Patrol of San Francisco and continue in the service of the City and County of San Francisco pursuant to the provisions of this section, shall be appointed and hold their positions subject to the civil service provisions of the charter.

The tours of duty of the members of said salvage corps shall be the same as the tours of duty for other members of the uniformed force of the fire department as the same are set forth in section 36 of the charter.

The physical and age requirements for future applicants and members of the salvage corps shall be the same as those applicable to applicants for and regular members of equal rank in the San Francisco fire department.

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. [*New section, 1943*]

Salvage Corps—Military Leave Provisions

SECTION 38.2. Notwithstanding any other provisions of this charter, any person employed on July 1, 1943, in the uniformed force of said Underwriters' Fire Patrol of San Francisco who was absent from his duties therein on account of military service and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six (6) months next before July 1, 1943, is deemed a member of said salvage corps on July 1, 1943, on military leave from his position therein and is deemed appointed thereto on July 1, 1943, pursuant to the civil service provisions of the charter and entitled from said date to all of the benefits of such employment. [*New section, 1947*]

OTHER BOARDS AND DEPARTMENTS

California Palace of the Legion of Honor

SECTION 50. The California Palace of the Legion of Honor shall be known as such in perpetuity. The management, superintendence, and operation thereof and the lands set aside therefor shall be vested in a board of eleven trustees, of which the mayor and the president of the park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. None of said trustees shall receive any compensation for his or her services. Trustees need not be residents of the city and county.

The board shall have exclusive charge of the said memorial, the lands set aside therefor, and its affairs, and of all real and personal property thereunto belonging, or which may be acquired by loan, purchase, gift, devise, bequest or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise or bequest. It shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter; provided that all such assistants and employees who are actually employed, or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date or such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject to the civil service provisions of this charter. The secretary shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller. The trustees shall have power to insure loan exhibits against any risk.

The supervisors, for the purpose of maintaining, operating and superintending said memorial, and the purchase of objects of art, literary productions and other personal property, shall provide an amount sufficient for the maintenance, operation, and superintendence thereof; subject to the budget and fiscal provisions of this charter, and to that end shall levy a tax annually, the proceeds of which shall be credited to and deposited in a fund in the treasury of the city and county to be known as the "California Palace of the Legion of Honor Fund," and shall be used exclusively for the purposes thereof.

It is the intention that the administration and control of the California Palace of the Legion of Honor shall be continued with the powers granted and under the conditions imposed by the terms of the donation and accepted by the city and county. [*Amended, 1943*]

M. H. de Young Memorial Museum

SECTION 51. The M. H. de Young Memorial Museum shall be known as such in perpetuity. The museum and the grounds set aside therefor shall be under the management, superintendence, and operation of a board consisting of eleven trustees, of which the mayor and the president of the park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. The number of trustees may be increased from time to time as needed, provided that at no time shall the total number of trustees exceed seventeen. The trustees in office at the time, shall, in their discretion. determine the need for additional trustees. Upon making such determination, the additional trustees shall be elected by the vote of the majority of the board then in office. None of said trustees shall receive any compensation for his or her services.

The board shall have exclusive charge of the said memorial museum, the lands set aside therefor, and its affairs, and of all real and personal property thereunder belonging, or which may be acquired by loan, purchase. gift, devise, bequest, or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise, or bequest. The trustees shall have power to insure loan exhibits against any risk. The park commission shall maintain and care for the grounds of this memorial museum, and shall furnish the moneys for the necessary repair and embellishment of the grounds and unoccupied parts.

The board of trustees shall have the power to maintain, repair or reconstruct existing buildings and construct new buildings and to make and enter into contracts relating thereto, subject, however, to the budget and annual appropriation ordinance. The supervisors, subject to the budget provisions of this charter, shall, for the purpose of maintaining said memorial museum, include in each annual budget of city and county expenditures an amount sufficient for the maintenance, operation and superintendence thereof, not less than forty thousand dollars ($40,000) in each annual budget, and such additional amount as is necessary to take care of the increased demand for help, buildings, repairs, and care of said memorial museum. Such amount shall be credited to and deposited in the fund in the treasury of the city and county to be known as the "M. H. de Young Memorial Museum Fund." The board shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this charter; provided that all such assistants and employees who are actually employed, or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date of such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject to the civil service provisions of this charter. The secretary shall keep a full account of all property, money, receipts and expenditures and a record of all its proceedings, and shall file annually a report with the controller.

It is the intention that the administration and control of the M. H. de Young Memorial Museum shall be continued with the powers granted and under the conditions imposed by the terms of the donations and accepted by the city and county. [*Amended, 1943; 1948*]

California Academy of Sciences

SECTION 52. The management, superintendence, and operation of all buildings and other improvements heretofore or hereafter erected by or under the authority of the California Academy of Sciences, a non-profit corporation organized under the laws of the State of California for the promotion of science, on any property owned or controlled by the park commission of the City and County of San Francisco, shall be in charge and under the direction of said California Academy of Sciences. The buildings and improvements hereby referred to include, without limitation, the Steinhart Aquarium, the original Natural History Museum and the Simson African Hall, located in Golden Gate Park and heretofore erected by or under the authority of the California Academy of Sciences, together with the proposed additions thereto for the purpose of housing, among other things, the proposed Alexander F. Morrison Planetarium, and a proposed auditorium, if and when erected by said California Academy of Sciences.

In addition to all other approvals required by law, plans for all proposed buildings and improvements, including any additions, must be approved by the park commission and the art commission. The park commission, notwithstanding any provisions of the charter to the contrary, is hereby authorized, subject to approval by the board of supervisors by ordinance, to set apart from time to time such portions of property under its control, as may be required for such buildings and improvements, sufficient grounds being allotted to secure the safety of the same from fire. The erection of buildings or additions to buildings shall not be started by the California Academy of Sciences until it shall have submitted a statement satisfactory to the park commission of its ability to finance the proposed work to completion. All buildings and improvements heretofore or hereafter erected by or under the authority of said California Academy of Sciences in or on property owned or controlled by the City and County of San Francisco are and shall become the property of the City and County of San Francisco, but said buildings and improvements and all persons employed therein or thereabout shall be used and controlled exclusively by the said California Academy of Sciences under such proper rules and regulations as it may prescribe, subject, however, to the charter provisions relating to civil service and salary standardization with respect to employees of the city and county. The board of supervisors shall, by ordinance, prescribe the insurance to be furnished by the California Academy of Sciences to save the city and county harmless from claims for damages to persons or property arising from the construction or use of any of said buildings. No fees shall be charged for admission to said buildings or improvements, except that reasonable and appropriate charges may be made by said California Academy of Sciences for admission to or use of the said proposed Alexander F. Morrison Planetarium and proposed auditorium. Particular buildings or improvements or portions thereof may be named in memory of persons designated by said California Academy of Sciences.

Not later than the first day of April in each year the California Academy of Sciences shall file with the mayor and the board of supervisors a statement for the last fiscal year of its expenses and income in connection with the use and operation of each of the buildings included herein.

Funds necessary for the maintenance, operation, and continuance of said Steinhart Aquarium shall be furnished by the city and county to said California Academy of Sciences. The board of supervisors is empowered to furnish to said California Academy of Sciences such funds as the board shall deem proper for the maintenance, operation, and continuance of any or all other of said buildings and improvements heretofore or hereafter erected. Such funds shall be appropriated in accordance with the budget and fiscal provisions of this charter.

All positions in said buildings and improvements for which funds shall be furnished by the city and county, as aforesaid, shall be held by employees of the city and county, with the exception of the director, the secretary of the board of trustees of said California Academy of Sciences, the curators and other scientific and professional personnel, and occupants of part-time positions for which a total compensation of less than $80.00 per month is provided by the city and county, inclusive of allowance for maintenance and other incidental benefits. Any occupant of a position or employee on military leave from a position in any of said buildings or improvements, which position is not within the exceptions hereinabove, or was not heretofore subject to the civil service provisions of the charter, who shall on the effective date of this amendment, be a citizen of the United States, and have been employed in such position for one year immediately prior to said effective date, shall be continued in such position by said city and county on said date, in accordance with the civil service classification of positions as if appointed thereto after examination and certification from a list of eligibles, and shall be governed thereafter by the civil service provisions of the charter. Each such occupant or employee so employed and each such person on military leave shall, for purposes of civil service seniority be deemed to have been appointed to such position by the city and county upon the date of commencement of his occupancy thereof; provided that if such date is prior to January 16, 1945, the date of commencement of such occupancy shall for purposes of civil service seniority be deemed to be January 16, 1945. Positions held by employees of the city and county at said buildings and improvements shall be subject to the civil service provisions of this charter and the compensation thereof shall be subject to the salary standardization provisions of this charter, in like manner and extent in all respects as positions and compensations of employments in the city and county service generally, notwithstanding anything to the contrary contained in the charter or ordinances of said city and county. The chief administrative officer shall be the appointing officer as provided in this charter.

Nothing herein contained shall abrogate any trust under and by which any property of said California Academy of Sciences has been or shall hereafter be accepted by the city and county or under and by which it is now or shall hereafter be held. [*Amended, 1945; 1946; 1948*] vacation, abandonment, sale, or change in the use of any public way, transportation route, ground, open space, building, or structure, the subject matter of which has not been previously reported on by the department of city planning in accordance with the provisions of sections 69, 69.1, 72 or 116.1 of this charter, shall be adopted by the board of supervisors unless and until such ordinance or resolution shall have first been referred to the department of city planning and a report rendered thereon regarding conformity of the matter involved to the master plan. If conformity does not exist the report shall give the particulars of the difference between the proposal and the master plan.

It shall be the duty of the department of city planning to render its report in writing upon any ordinance or resolution to the board of supervisors and to the controller within thirty days after the date of such referral unless a longer period is granted by the board of supervisors. Failure of the department of city planning to render any such report in such time shall be deemed equivalent to a report. [*New section, 1948*]

Zoning—Present Provisions to Apply Pending Ordinance Revision

SECTION 117. Until such time as the board of supervisors shall have enacted a new comprehensive zoning ordinance for the city and county based on a land use plan and providing for variances, and until the effective date of such ordinance, this section of the charter shall continue in force, and until such time, sections 117.1, 117.2, and 117.3, shall be inoperative. Upon the enactment and effective date of such an ordinance this section of the charter shall become inoperative for any purpose, and sections 117.1, 117.2, and 117.3, shall become operative.

ZONE CHANGES

The city planning commission, from time to time, shall consider and hold hearings on proposed changes in the classification of the use to which property in the city and county may be put, and the establishment or changing of building set-back lines, in either case, on its own motion or on the application of an interested property owner.

HEARINGS, ETC.

The board of supervisors, by ordinance, shall establish procedure for action on such matters, which ordinance must provide, among other things, that the commission shall give notice of time, place and date of hearing by posting throughtout the area and by publication not less than twenty days prior thereto; that the commission shall notify, in writing, not less than ten days prior to said hearing, applicants for proposed changes, and all persons whose names and addresses are shown on the assessment roll as owners of property within three hundred feet of all exterior boundaries of the area affected by the proposed changes of the time and place of hearing, which names, addresses and other information shall be furnished by the applicant in the form required by the commission; that the commission, after hearing shall, by resolution, approve or disapprove the proposed change which, if approved, shall not become effective for thirty days; that appeal may be taken from the ruling of the commission by filing written protest with the board of supervisors, and if such protest is subscribed by the owners of twenty per cent of the property affected, the supervisors shall fix a time and a place for hearing such objections which shall be not less than ten nor more than thirty days after such filing, and must decide thereon within ten days of the start of such hearing; that the supervisors, by not less than two-thirds vote, may disapprove the action of the commission, provided, however, that any change in zoning, classification or building set-back lines made by the commission on its own motion shall require approval of the supervisors by a two-thirds vote; that in case of disapproval by the commission or by the supervisors on appeal of a proposed change, such proposed change may not be resubmitted to or reconsidered by the commission for at least one year.

LEGISLATIVE REFERRAL

No ordinance shall be considered by the supervisors, the purpose or intent of which is the classification, regulation or control of the height, area, bulk, location or use of any building or buildings, or premise or premises, and classifying any property into any district or zone for such purposes, or establishing a set-back line or lines along any street or portion thereof in the city and county without being first submitted to the city planning commission for report and recommendation. If the commission disapproves any such ordinance, the supervisors may adopt the same only by an affirmative vote of at least two-thirds of its entire membership. The failure of the commission to act within sixty days from and after the date of official submission of any proposed zoning classification or set-back line by the board of supervisors shall be deemed to be approval of such classification or proposed set-back line by the commission. [*Amended, 1948*]

The Board of Supervisors in establishing a procedure as directed by this section cannot deprive a property owner of a right given by the Charter. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

It is presumed that the words "an interested person," as used in the section, were used in the same sense in which they were by prior decisions deemed to have been used in various statutes. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

An adjacent property owner is interested in the use to which his neighbor may legally put his property and is, therefore, an interested property owner within the section. **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46 Pac. (2d) 308.

An ordinance providing that a petition for rezoning shall be signed and verified by "the owner of the property" is invalid as an attempted limitation on the section which authorizes such an application by "an interested property owner." **Marculescu v. City Planning Commission** (1935) 7 Cal. App. (2d) 371, 46, Pac. (2d) 308.

New Provisions for Zone Changes

SECTION 117.1. The city planning commission shall consider and hold hearings on proposed changes in the zoning ordinance which classifies the uses to which property in the city and county may be put, and on the establishment or changing of building set-back lines, either on its [illegible] shall [illegible]otion, or on the application of interested property owne[illegible] planning [illegible]ir authorized agents. The board of supervisors, by o[illegible] establish [illegible] on such matte[illegible] time and place of such hearings and shall act upon such applications for change within thirty days from date of filing. If approved, such applications, together with the approval of the commission, shall be presented to the board of supervisors, which may adopt such changes by a majority vote. If disapproved, the action of the city planning commission shall be final, except that appeal may be taken from the ruling of the commission by filing written protest with the board of supervisors within a period of thirty days after the action of the city planning commission, and if such protest is subscribed by the owners of twenty per cent of the property affected. The board of supervisors or the clerk thereof shall set a time and place for hearing such appeal, which shall be not less than ten nor more than thirty days after such filing. The board must decide such appeal within ten days of the time so set for such hearing or the action of the commission shall be deemed to be approved by the board. The supervisors may disapprove the action of the commission on such appeal by a vote of not less than two-thirds of all members of the board and adopt such change in said ordinance. Any action of the commission so appealed shall not become effective unless and until approved by the board within the time aforesaid. In case of disapproval by the commission or by the supervisors on appeal of a proposed change, such proposed change may not be resubmitted to or reconsidered by the commission for at least one year.

ACTION PENDING TO BE COMPLETED UNDER SECTION 117

All matters of the type referred to in this section which may be pending on the effective date hereof before the city planning commission or the board of supervisors shall not be affected by any of the provisions hereof, and in regard to all such pending matters, the city planning commission and the board of supervisors shall continue until the final determination thereof before both the commission and the board to exercise the [illegible] vers and duties provided by both the charter and ordinan [illegible] ly prior to the effec-

New Provisions for Zoning Administration

SECTION 117.2. There shall be in the department of city planning a zoning administrator appointed subject to the civil service provisions of this charter who shall administer and enforce the zoning and set-back ordinances. He shall receive and investigate all applications for proposed amendments thereto and shall submit his report and recommendations thereon to the director of planning prior to the hearing by the commission thereon. [*New section, 1948*]

Variances

SECTION 117.3. The zoning administrator shall receive, investigate, hear and determine all applications for variances from the strict application of the provisions of the aforesaid ordinances. The board of supervisors shall establish by ordinance the procedure for action on such matters, including the manner by which notice of time and place of hearings shall be given. The zoning administrator shall have power to grant only such variances as may be in harmony with the general purpose and intent of said ordinances and in accordance with the general and specific rules therein contained, subject to such conditions and safeguards as he may impose. He shall have authority to grant such variances only when the strict and literal interpretation and enforcement of the provisions of said ordinances would result in practical difficulties, unnecessary hardships or results inconsistent with the general purposes of the zoning regulations. Before any such variance may be granted, there shall appear, and the zoning administrator shall specify in his findings, the facts in each case which shall establish:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same district or zone;

(2) That such variance is necessary for the preservation and enjoyment of a substantial property
sessed by other property in the sam

(3) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located.

VARIANCE APPEALS

The determination of the zoning administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the board of permit appeals, exclusively and notwithstanding any other provision of this charter, by any person aggrieved or by any officer, board, or commission of the city and county. Any appeal from a determination of the zoning administrator shall be filed within ten days from the date of such determination with the board of permit appeals. Upon making a ruling or determination upon any matter under his jurisdiction, the zoning administrator shall thereupon furnish a copy thereof to the applicant and to the director of planning. No variance granted by the zoning administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

BOARD OF PERMIT APPEALS—POWER TO ACT ON VARIANCES

The board of permit appeals shall have and exercise the following powers:

(a) To hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the zoning administrator in the enforcement of the provisions of any ordinance adopted by the board of supervisors creating zoning districts or regulating the use of property in the city and county;

(b) To hear and determine appeals from the rulings, decisions and determinations of the zoning administrator granting or denying applications for variances from any rule, regulation, restric- [illegible] zoning or set-back ordinances, or any [illegible] aring of such appeals said board may affirm, change, or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other additional determination as it shall deem proper in the premises, subject to the same limitations as are placed upon the zoning administrator by this charter or by ordinance. [*New section, 1948*]

Subdivisions

SECTION 118. All plats or replats of subdivisions of land laid out in building lots, and the project plans for public and private housing, slum clearance and the rehabilitation and redevelopment of blighted areas, including the streets, alleys or other lands intended to be dedicated to public use or for the use of lessees, purchasers, or owners of lots fronting thereon or adjacent thereto, and located within the city and county limits, shall be submitted in tentative form to the department of city planning and the city planning commission shall report its recommendations thereon in writing to the agency responsible therefor, as provided by ordinance. Should major changes occur after acceptance of the tentative map, the final plat shall be submitted for further report thereon to the department of city planning. [*Amended, 1948*]

Service Com. (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

While there must be measurable standards established for determining the general proficiency of the candidates for a particular civil service position, the fact that such standards are subjective rather than objective does not prevent the classification of an "oral interview" as a "competitive" examination. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

While a competitive civil service examination envisages an objective standard of grading as far as possible, the practicalities of a particular situation may justify the employment of subjective estimates and the civil service commission reasonably concluded that the oral interview, as distinguished from a test of technical knowledge, was the most appropriate means for evaluating the candidate's personal fitness and appraising his possession of those traits or qualities which it had determined as "necessary and important" to the satisfactory discharge of the duties of the positions in question. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

Where the various aspects of personality factors, as previously determined by a county civil service commission to be "necessary and important" to the position to be filled were itemized for consideration by the examiner as the measuring rod and guide post in his evaluation process as to the personal fitness of a candidate, it could not be said that there was no effective common criterion of base topics underlying the comparitive ratings. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

Under charter provisions and a rule of the Civil Service Commission requiring that a proper record of examinations showing basis of rating be kept when oral tests are used, the precise questions and answers need not be recorded; since the purpose of such examination is to gauge the personality and attitude of the candidate as reflected in general pertinent conversation, it is sufficient if the examiner's findings thereon be recorded on the appraisal sheet according to the personal qualifications itemized for measure. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

The Civil Service Commission may properly use the confidential report of a county department head as part of the evaluation of a candidate for promotion, since it is a contemporary appraisal of the candidate's past performance in the service and, being based on personality factors which appear to have a valid relation to his readiness for promotion is as objective as practicable in listing the points for rating. **Almassy v. Los Angeles County Civil Service Com.** (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

Mandamus will not lie to compel a county civil service commission to annul promotional examinations and corresponding eligible lists promulgated on results thereof, where the examinations as prescribed by the commission were appropriate to the competitive selection of civil service personnel, and there was no charge or showing that the commission abused its discretion or proceeded otherwise than honestly and in good faith in the evaluation process.

Almassy v. Los Angeles County Civil Service Com. (1949) 34 Cal. (2d) 387, 210 Pac. (2d) 503, on hearing after 89 ACA 295, 200 Pac. (2d) 846.

The provision that applicants for positions in the uniformed forces of the fire and police departments "shall have the physical qualifications for enlistment" in the armed forces prescribes standards of minimum qualifications; and under the provision making the Civil Service Commission "the sole judge of the adequacy of the tests," it may require additional qualifications with which the courts will not interfere in the absence of a showing that they are arbitrary, capricious or unreasonable. **Cotter v. Wolff** (1948) 88 Cal. App. (2d) 382 (88 ACA 382), 198 Pac. (2d) 950.

The civil service provisions of a city charter for open and competitive examinations as the basis of employment in the classified service rule out any discrimination in hiring policies in favor of labor union members, and, perforce forbid a closed or union shop. **City of Los Angeles v. Los Angeles Bldg. & Const. Trades Council** (1949) 94 Cal. App. (2d) 36, 210 Pac. (2d) 305. Hearing in Supreme Court granted.

Where a city charter provides for competitive examination as a basis of employment, such provision cannot be modified by agreement whether coerced or voluntary; hence the employees of such city cannot, consistent with public policy expressed in its charter, lawfully strike or picket for the purpose of enforcing demands as to conditions of employment in respect to which neither the city nor a department thereof is obligated to bargain collectively, nor as to those conditions of employment which are covered by the city charter. **City of Los Angeles v. Los Angeles Bldg. & Const. Trades Council** (1949) 94 Cal. App. (2d) 36, 210 Pac. (2d) 305. Hearing in Supreme Court granted.

The actions of a city civil service board, exercising adjudicatory functions as an administrative tribunal, when based on information of which the parties were not apprised and which they had no opportunity to controvert, amounts to the denial of a hearing. **English v. Long Beach** (1950) 35 Cal. (2d) 155, 217 Pac. (2d) 22, on hearing after 93 ACA 675, 209 Pac. (2d) 403.

A rule of a municipal civil service board requiring a physical examination of an employee after six months' absence, and providing that failure to pass the examination shall constitute grounds for his suspension or dismissal, does not leave the determination of whether or not an employee shall be suspended or dismissed to the uncontrolled discretion of the examining physicians; their findings and conclusions form merely part of the evidence to be considered by the board in determining whether the employee shall be suspended or dismissed. **English v. Long Beach** (1950) 35 Cal. (2d) 155, 217 Pac. (2d) 22, on hearing after 93 ACA 675, 209 Pac. (2d) 403.

Limited Tenure Appointments

SECTION 145.1. When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under section 145 hereof, the civil service commission may qualify applicants for wartime appointments to positions through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the civil service commission adopted pursuant thereto and the tests shall be adequate in the judgment of the civil service commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in section 145 hereof. Appointments made under the provisions of this section shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided in section 145 hereof but in no event to exceed six months beyond the cessation of hostilities. Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the civil service commission without reference to the procedures governing removals set forth in section 154 hereof. Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this charter or by rule of the civil service commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in section 145 of the charter. Service after January 1, 1951, under limited tenure appointment, by platform employees of the municipal railway, shall not be included in the calculation of service of such employees for the purpose of determining assignments of runs when such assignments are made on the basis of seniority of service.

Non-civil service appointments in the absence of civil service eligibles as provided in section 149 of this charter shall not be authorized if applicants qualified for limited tenure appointments are available. The civil service commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in section 145 hereof. If its annual appropriation is insufficient to meet the cost of the examinations required to establish registers of eligibles through the examination procedures set forth in section 145 hereof, or to qualify applicants for limited tenure appointments as herein provided, the commission shall report to the mayor the estimated cost thereof and the mayor shall request and the supervisors shall make supplemental appropriations therefor in the manner provided herein for supplemental appropriations.

The civil service commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments.

In time of national emergency declared by the President of the United States or by the Congress or while any act authorizing compulsory military service or training is in effect, the provisions of this section may also be made operative upon recommendation of the civil service commission and approval of the board of supervisors by ordinance enacted by two-thirds vote of the board. Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six months after repeal by the board of supervisors of the ordinance which authorized such appointments. [*New section, 1943; amended, 1951*]

> Under a charter provision (See Los Angeles Charter, art. 9, § 34 (10)) providing for temporary positions in the civil service necessitated by absence due to the war, and rules providing a simplified procedure for selection of such employees, a holder of such a position is not a permanent employee, and is not embraced within a previously existing provision (Los Angeles Charter, § 37) blanketing in persons in the classified service at the time it took effect. **Matherly v. Allen** (1948) 86 Cal. App. (2d) 95, 194 Pac. (2d) 18.

such person reinstated in his position without prejudice, and the commission may in its discretion order that the employee be paid salary from time of the termination of his appointment; or (c) order the return of such person to the position from which he was promoted. The decision of the commission shall be final. Immediately prior to the expiration of the probationary period the appointing officer shall report to the civil service commission as to the competence of the probationer for the position, and if competent, shall recommend permanent appointment. [*Amended, 1937; 1946*]

The Civil Service Commission did not possess power to determine whether a position was temporary or permanent with respect to one who was appointed before this section became effective. Nor did it possess such power by reason of a second appointment after the effective date of the Charter which was a nullity because the appointee had been regularly appointed to a permanent position. **Doerr v. Civil Service Commission** (1937) 21 Cal. App. (2d) 173, 68 Pac. (2d) 731.

The mandatory duty imposed upon the commission to certify the name of the person ranking highest on the current list of eligibles for the position to be filled cannot be circumvented by a rule of the commission. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

Certifying Names for Position of General Clerk-Stenographer.—On requisition to the Civil Service Commission for a person to fill the newly created position of general clerk-stenographer in the Board of Supervisors, it was the imperative duty of the commission to certify the name of the person standing first on the list of eligibles, and, where such person held a position of a classification different from that of the general clerk-stenographer, the commission was not justified in failing to certify his name by its own rule purporting to confer upon it discretionary power in respect to transfers to permanent positions of the same classification under different appointing officers. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

A judgment for petitioner in mandamus compelling the Civil Service Commission to certify his name to the Board of Supervisors for the position of general clerk-stenographer is erroneous in so far as it attempts to relieve petitioner of the necessity of passing a probationary period in the new position. **Ballf v. Civil Service Commission** (1941) 43 Cal. App. (2d) 211, 110 Pac. (2d) 478.

Reinstatement of General Clerk-Stenographers.—Upon termination of their positions as general clerk-stenographers in the public welfare department, petitioners were not entitled to a writ of mandate compelling the commission to declare the positions permanent and to reinstate them, where it appeared that such positions were classified as temporary, that petitioners, after being certified under a requisition calling for temporary appointment, accepted the appointments and reappointments fully aware of their status, and that, because of their rating on the eligible lists, they would not have been eligible to the positions were such positions permanent. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880, in which the opinion, referring to **McGillicuddy v. Civil Service Commission** (1933) 133 Cal. App. 782, 24 Pac. (2d) 942; **Pow-**

ers v. Board of Public Works (1932) 216 Cal. 546, 15 Pac. (2d) 156 and **Rodgers v. Board of Public Works** (1929) 208 Cal. 291, 281 Pac. 64, states that the provisions of the new Charter so altered those of the old one as to make those cases of little value in determining the issues presented in the instant case.

One's position as jailer was permanent where before the effective date of the new Charter the Civil Service Commission pursuant to the Sheriff's request certified him from the register of eligibles as eligible for temporary employment, and where after the new Charter had gone into effect he served continuously for a period in excess of the six-months probationary period. **Doerr v. Civil Service Commission** (1937) 21 Cal. App. (2d) 173, 68 Pac. (2d) 731, following **McGillicuddy v. Civil Service Commission** (1938) 133 Cal. App. 782, 24 Pac. (2d) 942.

In mandamus to compel the commission to recognize that petitioners' tenure had ripened into a permanent employment, an allegation that their tenure of the positions for more than the probationary six months conferred upon them the status of permanent employees, and that the procedure whereby they were laid off for one day at the end of each five months' period was invoked arbitrarily for the express purpose of preventing them from acquiring a permanent status and avoiding the necessity of reclassifying the positions as permanent was not sustained where there was no showing that the commission acted other than in the highest good faith in dealing with them, or that any injustice or discrimination was practiced against them. **Villain v. Civil Service Commission** (1941) 18 Cal. (2d) 851, 117 Pac. (2d) 880.

Emergency Appointments

SECTION 149. When no list of eligibles is available for a position in the class requisitioned by the appointing officer, the commission may certify for civil service temporary appointment an eligible from another list deemed by the commission to be suitable to temporarily provide the service desired; or may authorize the appointing officer to make a non-civil service emergency appointment thereto for a period not exceeding ninety days and only until a regular appointment under the provisions of this charter can be made. If a non-civil service emergency appointment is authorized, the commission shall immediately hold an examination and establish an eligible list for such position. If its annual appropriation is insufficient to meet the cost of said examination, it shall report to the mayor the estimated cost thereof, and the mayor shall request and the supervisors shall make supplemental appropriation therefor in the manner provided herein for supplemental appropriations. No person shall be compensated under any non-civil service emergency appointment or appointments as authorized under the provisions of this paragraph for a period exceeding ninety days in any fiscal year, and no claim or warrant therefor shall be approved, allowed or paid for any compensation in excess of such ninety days.

Whenever the board of supervisors by a three-fourths vote of all its members shall declare that an unemployment emergency exists throughout the city and county because of extraordinary conditions due to unemployment, and shall fix the period during which such unemployment emergency shall be officially recognized, the civil service commission shall then have power to exempt from civil service examinations during such emergency period all places of employment that may be created by special appropriation to relieve such unemployment emergency; provided, that no action shall be taken under the provisions of this paragraph that will adversely affect the rights of civil service eligibles for employment in the usual temporary and permanent positions that are provided for in the annual salary ordinance. The civil service commission shall adopt special rules for the government of appointments to the emergency positions that may be created under the authority of this paragraph. [*Amended, 1933*]

An assistant keeper in the office of Sheriff who was appointed to temporarily fill a vacancy in the position of head keeper and given the entrance salary provided by ordinance for persons appointed to fill vacancies could not, whether his appointment rested in this section or § 141, claim the salary attached to the position of head keeper. **Dunn v. Civil Service Commission** (1935) 3 Cal. App. (2d) 554, 40 Pac. (2d) 310.

Verification of Payrolls

Section 150. All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the civil service commission before presentation to the controller.

The secretary of the commission shall examine and approve such payroll for all persons legally appointed to or employed in positions legally established under this charter. The payrolls thus approved, with notation of any item thereof disapproved, shall then be certified by the secretary of the commission and transmitted by him to the controller. The controller shall not approve and the treasurer shall not pay any claim for personal services, or pay check or warrant for salary, wages or compensation unless the same shall have been approved by the said secretary.

For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any department head or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said department heads or other officers, and shall be subject to examination and approval by the secretary of the civil service commission and the controller in the same manner as payments for personal services.

The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other moneys received by him, in the course of his office or employment, into the city and county treasury except as provided in section 32 of this charter.

No officer or employee shall be paid for a greater time than that covered by his actual service.

Mandamus is available to compel the head of a department to certify and transmit work records of employees showing the periods worked on night shifts, as against the objection that this is not a proper remedy to recover money only. **Scannell v. Murphy** (1947) 82 Cal. App. (2d) ...... (82 A.C.A. ......) ...... Pac. (2d) ......

Rehearing.—The police commission has no power to renear a proceeding resulting in an order removing a police officer, in the absence of express authority. The power to punish after hearing does not carry the express power to revoke or to reinstate. **Hoertkorn v. Sullivan** (1944) 67 Cal. App. (2d) 151, 153 Pac. (2d) 367. See to same effect **Proud v. McGregor** (1937) 9 Cal. (2d) 178, 70 Pac. (2d) 194, with respect to the power of the police commission of Santa Barbara.

Review.—When a police board, vested with full power to determine guilt of a police officer, has acted in accord with prescribed procedure, a superior court has no power or authority to determine whether the grounds on which his discharge was based were well founded. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

On certiorari to review an order of the Police Commission dismissing an officer from the department, the court is called on to review whether the pleading stated facts sufficient to confer jurisdiction, but this is not the proper remedy in which to contest the truth as to jurisdictional facts. **Shewbridge v. Police Commission** (1944) 64 Cal. App. (2d) 787, 149 Pac. (2d) 429; **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

An order of the Board of Police Commissioners dismissing a lieutenant will not be set aside by the courts where such order is made by the board in the proper exercise of its discretionary Charter powers and after a formal charge, trial and conviction. **Ludolph v. Board of Police Commissioners** (1938) 30 Cal. App. (2d) 211, 86 Pac. (2d) 118.

Pleading.—Where a Charter confers discretionary power upon a police board to determine whether a police officer has been guilty of neglect of duty, a complaint which alleges that the board heard evidence offered by the complainant officer and derived its decision therefrom does not state a cause of action for a writ to compel reversal of the decision and restoration of the officer to his position. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Reinstatement.—When a police officer has by due process of law forfeited his right to be on the police force, the Chief of Police is without authority to restore him. To regain his position, he must pursue the route followed by any citizen who seeks to become a police officer. **Redding v. Los Angeles** (1947) 81 Cal. App. (2d) ...... (81 A.C.A. 1055), 185 Pac. (2d) 430.

Effect of Acquittal.—Under a charter provision (Los Angeles Charter, art. xix, § 202 (16)) providing that on request of a dismissed police officer to be reheard, the Chief of Police shall cause a board to be constituted for the purpose of rehearing the matter "if good reason or cause appears therefor," the Chief of Police in determining the existence of good cause is not bound by an acquittal of the officer on the second trial of the criminal charge against him. **Skaggs v. Horrall** (1948) 83 Cal. App. (2d) 424, 188 Pac. (2d) 774.

Demand for Reinstatement.—A city charter provision requiring an employee claiming that he has been unlawfully suspended, laid off, or discharged to file a demand for reinstatement within a specified time as a condition precedent to an action for reinstatement is applicable to resignations obtained under coercion or duress, regardless of whether the action is one in equity to have the resigna tion canceled or a proceeding in mandamus to compel reinstatement. **Temple v. Horrall** (1949) 92 Cal. App. (2d) 177, 206 Pac. (2d) 909.

A charter provision setting forth procedure for discharge of a city employee pursuant to charges filed against him does not apply to a case of alleged forced resignation. **Temple v. Horrall** (1949) 92 Cal. App. (2d) 177, 206 Pac. (2d) 909.

Transfer of Disabled

SECTION 156. When a permanent civil service employee other than a member of the fire department and police department who has served not less than three (3) years in his position, has become incapable through advanced age, accident or other disability, of performing the duties of his position, the civil service commission may, with the consent of the appointing officer or appointing officers involved, transfer him to a position within his capacities to perform, whether or not within the classification for which he qualified for appointment, but such position shall not be in a classification having a higher compensation schedule than the one from which he is transferred, and his compensation shall not thereafter be increased beyond the maximum salary for the classification to which such employee is transferred, nor in any event shall his salary be increased to equal the salary such employee would have received had he remained in his former position; provided, however, that a permanent employee, including any permanent member of the fire department and police department, who has become incapable of resuming his former position through disability incurred while on active service with the armed forces while on military leave may upon application after his discharge from military service be transferred under the provisions of this section, regardless of his length of service.

Employees transferred under the provisions of this section may, upon recovery from the disability, and with the consent of the civil service commission, return to a vacancy in their former classification.

Positions filled under the provisions of this section shall not be subject to salary standardization, but the salaries thereafter shall be fixed by the civil service commission within the limitations herein provided. The civil service commission shall make rules to carry out the intent of this section and such rules shall govern all transfers made under the provisions of this section. [*Amended, 1944; 1946*] dispense with the increase for additional service. **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

A practice of a city board of pension commissioners, permitting officers and employees of the police and fire departments to receive credit for time spent by them on furlough or leave of absence toward the time necessary to entitle them to receive their retirement pension, establishes a policy amounting to a departmental rule of action. **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

Where by law or by an established rule or practice of the administrators of a pension system, time spent on leave of absence or furlough is included in computing the time required to be served in order to qualify for retirement on pension, a returning veteran is entitled to have the time spent in the Armed Forces included in the computation of his service for the purpose of qualifying for a pension, just as though he had been on an ordinary furlough or leave of absence. (Const., art. xx, § 3.5; Mil. & Vet. Code, § 395.1, subd. (c)). **Palaske v. City of Long Beach** (1949) 93 Cal. App. (2d) 120, 208 Pac. (2d) 764.

It was within the power of a city to modify its pension plan to provide that on and after the effective date of the amendment an employee who was entitled to retire might do so or not, as he saw fit, but that if he chose to continue as an employee he could not thereby earn any additional pension above that to which he was entitled on the effective date of the amendment. **Allen v. Long Beach** (1950) 101 Cal. App. (2d) 15, 224 Pac. (2d) 792.

A municipal employee has a vested right only to a substantial or reasonable pension and his contractual right to such a pension is not impaired by legislation which, operating prospectively, merely withdraws any right or option to earn a bonus by continuing in employment after he has become eligible for retirement. **Allen v. Long Beach** (1950) 101 Cal. App. (2d) 15, 224 Pac. (2d) 792.

The good judgment of the electorate and the advisability of the modification of pension rights under a municipal charter are matters not subject to review by the courts. **Allstot v. Long Beach** (1951) 104 Cal. App. (2d) 441, 231 Pac. (2d) 498.

In amending the system of benefits provided by the pension provisions of a municipal charter, it is not unreasonable to give recognition to the fact that those employees who, at the effective date of the amendment, have served for longer periods, have acquired more substantial pension rights than those who entered the service later. **Allstot v. Long Beach** (1951) 104 Cal. App. (2d) 441, 231 Pac. (2d) 498.

The courts will not interfere with a classification of municipal employees for pension purposes unless it is arbitrary and unreasonable. **Allstot v. Long Beach** (1951) 104 Cal. App. (2d) 441, 231 Pac. (2d) 498.

Retirement of Elective Officers

SECTION 158.1. Notwithstanding the provisions of section 158 of this charter, elective officers, except members of the board of supervisors and of boards and commissions, shall be members of the San Francisco city and county employee's retirement system and shall be subject to all of the conditions applying to other members thereof, except members of the fire and police departments, and except as herein otherwise provided. In the determination of contributions and benefits of any officer becoming a member of the retirement system by virtue of the provisions hereof, that part of the salary of such officer which exceeds one thousand dollars ($1,000) per month shall be excluded. Elective officers in office on the effective date hereof and otherwise eligible to the provisions hereof shall have the option to become members of said retirement system to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof. Each such present and future elective officer may retire at his option but only after having attained the age of seventy years and only after having occupied such an elective office or having been otherwise employed in a position subject to membership in the retirement system for at least twenty years immediately preceding retirement, and may retire by filing written application therefor with the retirement board, and the mayor shall thereupon appoint a qualified person for the unexpired term of office remaining at the time of any such retirement. Such elective officer shall thereafter receive a retirement allowance equal to one-half of the compensation received by him at the time of retirement, provided that such allowance shall not exceed five hundred dollars ($500) per month. Contributions required to provide the portion of the benefits under this section not provided by the member's contribution shall be paid to the retirement system by the city and county. [*New section, 1947*]

Retirement Board

SECTION 159. The retirement system shall be managed by a retirement board, which is hereby created, and which shall be the successor and have the powers and duties of the board of administration, the board of trustees of the police relief and pension fund and the board of fire pension fund commissioners. The retirement board shall consist of the president of the board of supervisors, the city attorney, a resident official of a life insurance company, and an officer of a bank to be appointed by the mayor, and three members elected from the active members, who shall not include retired persons of the retirement system, provided that the city attorney may designate, by written document filed with the said retirement board, an assistant city attorney to attend meetings of the said board and to act for him and in his place. The term of office of the five members, other than the ex officio members, shall be five years, one term expiring each year and the terms of such five members now holding office being unchanged by this section. The members of the retirement board shall serve without compensation. The board shall appoint an actuary, who shall hold office at its pleasure, and may appoint a secretary, provided that the positions of secretary and actuary may be consolidated into one position by the said board, and the board may employ a consulting actuary from time to time. The secretary or actuary shall have the power to administer oaths and affirmations in all matters pertaining to the business of the retirement system.

The retirement board shall be the sole authority and judge, under such general ordinances as may be adopted by the supervisors, as to the conditions under which members may receive and may continue to receive benefits of any sort under the retirement system, and shall have exclusive control of the administration and investment of such fund or funds as may be established, provided that all investments shall be of the character legal for insurance companies in California.

The Retirement Board is not a state-wide administrative Board, but is a local board which may constitutionally be invested with quasi-judicial powers. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

The Charter confers judicial powers on the Retirement Board, and its findings based on conflicting evidence are binding on the courts. **Naughton v. Retirement Board** (1941) 43 Cal. App. (2d) 254, 110 Pac. (2d) 714; **Dornell v. Retirement Board** (1945) 72 Cal. App. (2d) 197, 164 Pac. (2d) 266. See **Brant v. Retirement Board** (1943) 57 Cal. App. (2d) 721, 135 Pac. (2d) 396, stating that the question whether the Charter conferred judicial power on the Retirement Board was not free from doubt, and assuming that the board exercised judicial functions.

Quasi-judicial powers have been conferred on the Retirement Board by the Charter and Municipal Code. **Hogan v. Retirement Board** (1936) 13 Cal. App. (2d) 676, 57 Pac. (2d) 520; **Murphy v. Retirement Board** (1942) 49 Cal. App. (2d) 58, 121 Pac. (2d) 101; **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

The Retirement Board constitutionally has been invested with quasi-judicial power to determine, in the first instance, whether or not any applicant is entitled to retirement benefits. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

One who becomes mentally incompetent while in the City employ and remains mentally incompetent thereafter, but fails to file an application for benefits for seven years during which period she has no guardian, is entitled to have the Retirement Board pass upon her application for benefits. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

On mandamus to review an order of the Retirement Board refusing petitioner a hearing of her application for benefits on the ground that she was no longer a member of the retirement system, the superior court is limited to determining whether or not the board regularly pursued its authority in the matter, and may not, in the first instance, pass upon the factual issues the determination of which has been conferred on the board. **Ware v. Retirement Board** (1944) 65 Cal. App. (2d) 781, 151 Pac. (2d) 549.

See also, § 19.

Actuarial Tables, Rates and Valuations

SECTION 160. The mortality, service and other tables and the rates of contribution for members as recommended by the actuary and the valuations determined by him and approved by the retirement board shall be conclusive and final, and the retirement system shall be based thereon. The total amount, as determined by the actuary and approved by the board, of the contributions required during any fiscal year of the city and county under the retirement system shall be paid into the retirement system by the city and county during such year. Liabilities accruing under the retirement system because of service rendered to the city and county by persons prior to the date their respective classes become eligible for membership in the system, and administrative costs under the system, shall be met by contributions to the retirement system by the city and county, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the system, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service.

Contributions to the retirement system required of the city and county shall be charged by the controller against the general fund or the school, utility, bond or other special fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any person prior to becoming a member of the system, under a temporary fund, such as bond or county roads funds, or a fund then no longer existing, may be charged against the general fund, and provided further, that any contributions required on account of persons receiving benefits under subdivision (e) of section 165, shall be charged against the general fund.

Continuous Service

SECTION 161. Continuous service shall be defined by the board of supervisors, but the absence prior to September 14, 1940, of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

On and after September 14, 1940, a member is absent on military service when he is absent from city service by reason of (1) service with the armed forces of the United States or the State of California; (2) service on ships operated by or for the United States government when such service is granted as ''military leave'' pursuant to section 153 of the charter; (3) service connected with the war effort for which leaves of absence shall be authorized pursuant to section 153 of the charter; or (4) any other service, under an order of the government of the United States or the State of California, or by lawful order of any of the departments or offices of said governments, provided that such absence in any of such services occurs (1) either during a war involving the United States as a belligerent or in time of national emergency, declared by the President of the United States or by the Congress, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty with said armed forces or said ships when such disability extends beyond such period; or (2) in time of peace if he is drafted for such services by the

United States government or volunteers for such service while subject to such draft.

For the purposes of this section a war involving the United States as a belligerent exists: (a) whenever Congress has declared any war which has not been terminated by any truce, treaty of peace, or otherwise; (b) whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or (c) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security. [*Amended, 1935; 1941; 1943; 1944; 1952*]

SECTION 161.1. Any member so absent on military service may contribute to the retirement system during such absence, at times and in the manner prescribed by the board, amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit for the absence as service in the same manner as if he had not been absent. If, however, a member does not affirmatively exercise the option herein provided, or if he exercised it affirmatively and defaults in any of the contributions due to the retirement system under said election, and in either event if such contributions are not made for him, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit as service for the city and county for such period; but the absence during such period shall not break the continuity of such service required of such member to entitle him to a retirement allowance, as provided under the retirement system.

Any member who was absent on military service and who did not make the contributions as provided in this section, and whose contributions are not paid for him by the city and county as provided herein, may make such contributions upon his return to city service at times and in the manner prescribed by the board. If he does so contribute, he shall receive credit for the absence as service in the same manner as if he had not been absent.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county in respect to such absence that would have been made if the member had not been absent on military service, except that such contributions shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence. [*New section, 1952*]

Section 161.2. Notwithstanding other provisions of this charter to the contrary, the city and county shall contribute for each member of this system who was absent on military service after September 14, 1940, amounts equal to the contribution which would have been made by such member and the City and County of San Francisco on the basis of his compensation earnable at the commencement of his absence, provided that the member's base pay in such military service is less than $100.00 per month, and provided, further, (1) that if the absence in military service was by reason of service in the armed forces of the United States; (2) that the absence began on or after June 25, 1950; and (3) that the member's base pay in such service was less than $250.00 per month, the city and county shall pay the contributions which would have been made by both the member and the city and county on the basis of his compensation earnable at the commencement of his absence. Contributions made by the city and county, in lieu of contributions which otherwise would be required of the member, shall be administered as if made by said member as normal contributions. Any such member who exercises or did exercise the right to contribute to the system during the period of absence on military service, and whose contributions otherwise would be paid by the city and county under this section, shall have his contributions plus credited interest, refunded. [*New section, 1952*]

Definition, Members of Fire and Police Departments

Section 162. For the purposes of the retirement system, any officer or employee of the police or the fire departments whose employment therein began prior to January 1, 1900, or whose employment therein began on or shall begin after that date and was or shall be subject to a charter maximum age at the time of employment of not over thirty-five years, shall be considered to be a member of the police department or the fire department, respectively. Any fire or police service outside the limits of the city and county performed by a member of the retirement system and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

Pensions of Retired Persons

Section 163. (a) No person retired for service or disability and in receipt of a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

(b) Should any retired person, except persons retired for service prior to January 8, 1932, and persons retired because of disability incurred in the performance of duty, engage in a gainful occupation prior to attaining the age of sixty-two, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed the compensation on the basis of which his pension or retirement allowance was determined.

The provisions of paragraph (b) of this section shall be inoperative during the existing war between the United States and the Axis Powers and for six (6) months after the termination of said war. [*Amended, 1945*]

Reading this section in connection with §§ 165, 166 and 167, it is clear that existing police officers will be members of the retirement system only if they were in active service as such on January 8, 1932. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

A captain of detectives in the police department, who after his retirement under the old Charter was holding the office of City Treasurer, but who relinquished his pension and his salary, could become a candidate for Treasurer under the new Charter, since the inhibition of this section applies only to members of the retirement system declared such by the new Charter. **Sunder v. Collins** (1933) 219 Cal. 430, 27 Pac. (2d) 382.

Inasmuch as a fireman's right to a pension does not become vested until the happening of the contingency upon which the pension becomes payable, the pension of a fireman who was appointed prior to the operative date of the present Charter, and who prior to that date had served a substantial part of the time required to entitle him to a pension was subject to the provision requiring a reduction of a pension when a retired person engaged in gainful occupation. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The 1945 amendment to the section providing that it "shall be inoperative" during the existing war, etc., is not retroactive, and applies only from the date of the amendment to six months after the end of the war. A contrary construction would probably result in a gift of public funds in violation of Const. art. iv, § 31. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

The provision requiring the reduction of pensions when retired persons engage in gainful occupations is not subject to the objection that it is discriminatory and violates Const. art. i, § 11, by reason of the fact that by its terms it is inapplicable to persons over 62, those who retired on account of disability, or those under 62 whose income is not derived from gainful employment. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

Under § 163b, providing that when a retired person engaged in gainful employment the pension provided by contributions of the City and County shall be reduced to an "amount which . . . shall not exceed the compensation on the basis of which his pension or retirement allowance was determined," the judgment in a declaratory relief action is too limited if it fixes as a maximum the compensation the party received on his retirement, and should provide for a computation on the basis of his rank. **Brophy v. Employees Retirement System** (1945) 71 Cal. App. (2d) 455, 162 Pac. (2d) 939.

Contributions to Retirement Fund

SECTION 164. The city and county shall contribute jointly with the members of the retirement system to meet the liabilities accruing under the system because of service rendered to the city and county by persons after becoming members of the system. Members of the system shall contribute not to exceed ten per cent of their salaries or wages, provided that members may, at their option, elect to contribute at rates in addition to those fixed as normal by the retirement board. The city and county shall contribute an amount equal to normal contributions of members as provided for in the preceding sentence, but the city and county shall not contribute any amount because of additional contributions by members.

PENSIONS AND RETIREMENT
(Continued)

Miscellaneous Officers and Employees

SECTION 165. Officers and employees of the city and county, except members of the police and the fire departments, shall become members of the retirement system subject only to the following provisions, in addition to the provisions contained in sections 158 to 164, of this charter, both inclusive:

(a) The system shall be applied to such offices, departments, bureaus, or classes of officers or employees of the city and county, including teachers in the San Francisco school department, as the supervisors shall determine; provided, however, that the contributions to be made by said teachers and the benefits to be received by said teachers under said retirement system shall be based upon the proportion of salaries of said teachers which have been and shall be paid out of funds contributed by the city and county, excluding therefrom the portion of such salaries which have been or shall be paid out of funds contributed by the State of California; and in determining such proportion it shall be taken to be the same proportion which the whole amount of money contributed by the city and county to the common school fund in any fiscal year bears to the whole amount of money contributed to such fund in such year by the state and by the city and county; and provided, further, that nothing herein contained shall be construed to deprive any teacher of the right to receive benefits under any pension or retirement system now or hereafter established by the State of California.

(b) No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of sixty-two years and completed ten years of continuous service, but retirement shall be compulsory at the age of seventy years. It may be provided, however, under such retirement system, that members may retire after thirty years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below sixty-two, in accordance with the tables recommended by the actuary and approved by said retirement board.

(c) All persons who were retired prior to October 1, 1925, from service as teachers in the public schools of San Francisco, under the provisions of the law of 1913, establishing the California Public School Teachers' Retirement Salary Fund, shall be entitled to and shall receive retirement allowances, to be calculated on the same basis as that established for determining the retirement allowances provided for members of the said retirement system.

Sunder v. Collins, see § 163.

In the Emergency Proclamation of Aug. 21, 1944, waiving Charter limitations as to age with respect to employees of the Market Street Railway Company, paragraph four, providing for discharge of persons "who suffer disqualification of age" on the finding of qualified employees, applies as well to those disqualified at the time of their entrance into civil service and those who became disqualified later. **Palmer v. Wolff** (1948) 88 Cal. App. (2d) ...... (88 ACA 1001), ... Pac. (2d) ......

A writ of mandate to compel restoration of civil employees discharged because of overage is properly denied where an emergency waiver of age limitations is rescinded before trial and any right to restoration is thus but an abstract right. **Palmer v. Wolff** (1948) 88 Cal. App. (2d) ...... (88 ACA 1001), ... Pac. (2d) ......, assuming for the purpose of the decision that the Emergency Proclamation of Aug. 21, 1944, suspended the compulsory retirement provision of § 165.

Pacific Gas & Electric Company Employees

SECTION 165.1. The board of supervisors shall have the power to provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said city and county and the Pacific Gas & Electric Company, and because of their employment by said company at the effective date of said lease, or other temporary arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said city and county upon purchase or other permanent acquisition of the properties of said company, essentially the same benefits on account of service rendered as employees of said city and county, as they would have received if they had been members throughout said service of the San Francisco City and County Employees' Retirement System on the same basis as other employees of said city and county, except members of fire or police departments. [*New section, 1941*]

Retirement—Miscellaneous Officers and Employees Prior to July 1, 1947

SECTION 165.1.1. Every retirement allowance payable by the San Francisco city and county employees' retirement system, for time commencing on the effective date of this section, hereby designated as the first day of the month next following its ratification by the Legislature, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under section 165, is hereby increased by the amount of twenty-five dollars per month, provided such member was entitled to be credited under the retirement system with at least twenty years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than twenty years of such service, then said monthly increase shall be an amount which shall bear the same ratio to twenty-five dollars that the service with which the member was entitled to be credited at effective date of retirement, bears to twenty years. This section does not give any member retired prior to the effective date hereof, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to said effective date. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on said effective date, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on said effective date, or if the retired member is not living on said effective date and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon said effective date, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under section 165.2, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases. [*New section, 1949*]

Retirement—Miscellaneous Officers and Employees On and After July 1, 1947

SECTION 165.2. Miscellaneous officers and employees, as defined in this section, who are members of the retirement system under section 165 of the charter on the effective date hereof, hereby designated as the first day of July, 1947, and persons who become miscellaneous officers and employees after said effective date, shall be members of the retirement system on and after said date, subject to the following provisions of this section, in addition to the provisions contained in sections 158 to 161, both inclusive, of this charter notwithstanding the provisions of any other section of the charter, provided that the retirement system shall be applied to persons employed on a part-time, temporary or substitute basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the retirement system under section 165 of the charter on said effective date, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than ninety days after the effective date hereof, of being members of the system under section 165 instead of this section, the election under said option to be effective on said effective date, provided, that members who are absent by reason of service in the armed forces of the

United States or by reason of any other service included in section 161 of the charter, on the effective date of the amendment, shall have the same option of electing to be members under section 165 instead of this section, until ninety days after their return to service. On and after said date, the persons who affirmatively exercise said option, shall continue to be members of the system under section 165 and shall not be subject to any of the provisions of this section.

(A) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

''Retirement allowance,'' or ''allowance,'' shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

''Compensation,'' as distinguished from benefits under the workmen's compensation laws of the State of California, shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, excluding that part of such remuneration which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

''Compensation earnable'' shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city service he was in the position first held by him in city-service.

''Benefit'' shall include ''allowance,'' ''retirement allowance,'' and ''death benefit.''

''Average final compensation'' shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the retirement system in which his average final compensation is the highest, excluding that part of such remuneration which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the retirement system and of this section, the terms ''miscellaneous officer or employee,'' or ''member,'' as used in this section shall mean any officer or employee who is not a member of the fire or police departments as defined in the charter for the purpose of the retirement system, under section 165 of the charter.

''Retirement system'' or ''system'' shall mean San Francisco City and County Employees' Retirement System as created in section 158 of the charter.

''Retirement board'' shall mean ''retirement board'' as created in section 159 of the charter.

''Charter'' shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

''Interest'' shall mean interest at the rate adopted by the retirement board.

(B) Any member who completes at least twenty years of service in the aggregate credited in the retirement system and attains the age of fifty-five years, or at least ten years of service in the aggregate credited in the retirement system, and attains the age of sixty years, said service to be computed under subsection (G) hereof, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of seventy years during the twelve months ending June 30, 1948; the age of sixty-nine years during the twelve months ending June 30, 1949; the age of sixty-eight years during the twelve months ending June 30, 1950; the age of sixty-seven years during the twelve months ending June 30, 1951; the age of sixty-six years during the twelve months ending June 30, 1952; and thereafter, following the attainment of the age of sixty-five years. A member retired after reaching the age of sixty years shall receive a service retirement allowance at the rate of 1⅔ per cent of said average final compensation, for each year of service. The service retirement allowance of any member retiring prior to attaining the age of sixty years, after rendering twenty years or more of such service and having attained the age of fifty-five years, computed under subsection (G), shall be such as can be provided at the age of retirement by the actuarial value, at the age of retirement, of the retirement allowance to which he would be entitled upon retirement at age sixty and with the service credited at the date of actual retirement. Before the first payment of a retirement allowance is made, a member retired under this subsection or subsection (C) of this section, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits. The portion of service retirement allowance provided by the city and county's contributions shall be not less than $50 per month upon retirement after thirty years of service and after attaining the age of sixty years, and provided further that as to any member with fifteen years or more of service at the compulsory retirement age of sixty-five, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than $50 per month. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied on full time service and compensation in the calculation of retirement allowances.

(C) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least ten years of service credited in the retirement system in the aggregate, computed as provided in subsection (G) hereof, shall be retired upon an allowance of one and one-half per cent of the average final compensation of said member, as defined in subsection (A) hereof for each year of credited service, if such retirement allowance exceeds one-third (⅓) of his average final compensation; otherwise one and one-half (1½) per cent of his average final compensation multiplied by the number of years of city-service which would be creditable to him were such city-service to continue until attainment by him of age sixty, but such retirement allowance shall not exceed one-third (⅓) of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the five (5) years immediately preceding his retirement. Part time service and compensation shall be reduced to full time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied as full time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

(D) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workmen's compensation laws of the State of California.

(E) If a member shall die, before retirement, regardless of cause, a death benefit shall be paid to his estate or designated beneficiary consisting of the compensation earnable by him during the six months immediately preceding death, plus his contributions and interest credited thereon. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members.

(F) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and re-employment with and without re-deposits of withdrawn accumulated contributions of other members of the retirement system, provided that if such member is entitled to be credited with at least ten years of service, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. Upon the qualification of such member for retirement by reason of service and age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1⅔ per cent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid his estate or designated beneficiary.

(G) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service of a member under this section shall count

under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under this section, provided that the accumulated contribution standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his service in either of such departments at the compensation he received in such departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of section 161 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under section 165.

(H) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The rate of contribution of each member under this section shall be based on his nearest age at the effective date of his membership in the retirement system. The normal rate of contribution of each such member, to be effective from the effective date of membership under this section, shall be such as, on the average for such member, will provide, assuming service without interruption, under subsection (B) of this section, one-half of that portion of the service retirement allowance to which he would be entitled if retired at age sixty or higher age after rendering ten years of service for retirement under that subsection. No adjustment shall be included in said rates because of time during which members have contributed at different rates. Members' rates of contributions shall be changed only in the manner prescribed by the board of supervisors for changing contribution rates of other members.

(2) There shall be deducted from each payment of compensation made to a member under this section, a sum determined

by applying the member's rate of contribution to such compensation. Amounts which would have been deducted in the absence of the limit on such deductions according to service credited, shall be paid to the retirement system following the removal of such limit, in manners and at times approved by the retirement board. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, under this section or shall be paid to said member or his estate or beneficiary as provided in subsections (E) and (F) of this section, provided that the portion of the salaries of the teachers as provided in section 165, paragraph (a), as a basis for fixing the contributions to be made, and the benefits to be received, by the teachers under the retirement system shall be determined by the method provided in section 165, paragraph (a) and shall not be less than eighty per cent of the total salary received by the teachers, excluding that part of such portion which exceeds $500.00 per month, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

(3) Contributions based on time included in paragraphs (1) and (3) of subsection (G), and deducted prior to the effective date hereof, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(4) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, on the effective date hereof, in the accounts of the retirement system, on account of persons who become members under this

section, shall be applied to provide the benefits under this section.

(5) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this subsection (H), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his rate of contribution is determined in paragraph (1), subsection (H), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this section, said percentage to be the ratio of the value of the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system as provided by the board of supervisors, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

(6) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county

held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to the effective date hereof, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

(I) Upon the completion of the years of service set forth in subsection (B) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said subsection (B), and nothing shall deprive said member of said right.

(J) No person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

Should any such retired person engage in gainful occupation prior to attaining the age of sixty years, the retirement board shall reduce that part of his monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him in such occupation, shall not exceed his compensation at the time of his retirement.

(K) Any section or part of any section in this charter, insofar as it should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1947; amended, 1948*]

Where a city employee contributed to a City Retirement Fund and Death Benefit Fund before widowhood and remarriage, and continued such contributions from community property thereafter until his death, the proceeds will be apportioned between the second wife and the designated beneficiary in the same proportion as the contributions after the second marriage bear to the contributions previously paid. **Gettman v. Los Angeles Department of Water and Power** (1948) 87 Cal. App. (2d) ...... (87 ACA 967), 197 Pac. (2d) 817.

he was retired, immediately prior to its abolition. [*New section, 1949*]

SECTION 171.1.13. Any section or part of any section in this charter, insofar as it should conflict with these sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13 or 171.1.14, or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. [*New section, 1949*]

SECTION 171.1.14. Sections 171.1, 171.1.1, 171.1.2, 171.1.3, 171.1.4, 171.1.5, 171.1.6, 171.1.7, 171.1.8, 171.1.9, 171.1.10, 171.1.11, 171.1.12, 171.1.13, and 171.1.14, contained in the proposition therefor submitted to the electorate on November 2, 1948, shall take effect on the first day of July, 1949. [*New section, 1949*]

Compensation Insurance Payments

SECTION 172. The benefit provisions of the workmen's compensation laws included in the Labor Code of the State of California, as they affect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be reinsured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in section 35 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special officer shall receive the benefits of such compensation law from any other source.

Whenever any member of the fire or police department, as defined in sections 171.1.1 and 168.1.1, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in or illness caused by the performance of his duty, as determined by the retirement board, he shall become entitled, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary as fixed by the charter, while so disabled, for a period or periods not exceeding twelve months in the aggregate, with respect to any one injury or illness. Said disability benefit shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workmen's compensation laws included in said Labor Code, shall be considered as in lieu of such benefits, payable to such person under the said Code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code. Medical treatment which may become necessary to relieve or cure said member from the effects of the injury or illness shall be furnished by the city and county, in the same manner that such treatment is furnished under said Labor Code, but without first requiring continuing awards of such treatment by the Industrial Accident Commission of the State of California, relating to impairments of permanent or of extended and uncertain duration. The provisions of this paragraph shall be administered exclusively by the retirement board, and the city and county shall pay to the retirement system during each fiscal year, an amount equal to the total disability benefits paid by said system during that year. A member of the fire or police department shall receive credit as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit. Contributions for the retirement system shall be deducted from said benefits in the same manner as they would be deducted from salary paid to him, and the city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member. [*Amended, 1937; 1952*]

A patrol special police officer appointed pursuant to § 35.10 is an employee of San Francisco within § 172, and the evidence supported a finding that his fatal inury arose out of and in the course of employment by the City where it appeared that he was apparently engaged in attempting to prevent the commission of a crime or to apprehend a criminal when he was killed. **San Francisco v. Industrial Acc. Com.** (Odom) (1947) 12 C. Comp. Cas. 207.

The evidence supported a finding that a special patrol officer was fatally injured in the course of his employment by the City where it appeared that he was fatally injured while en route from the scene of an emergency policing assignment to his routine duties. **San Francisco v. Industrial Acc. Com.** (Pate) (1947) 12 C. Comp. Cas. 112.

SIXTH SUPPLEMENT TO 1948 EDITION OF CHARTER

This supplement contains:

1. History of Charter Legislation.
2. New and amended Charter sections.
3. Supplemental Index and Table of Deletions.
4. Supplemental Digest.

SUGGESTIONS FOR USE

In the front of the book substitute the new "History of Charter Legislation" for the one presently contained therein.

Remove all of the Charter sections, or parts thereof, superseded by the Charter sections contained in this envelope and, if it is desired to retain such superseded sections, place them at the back of the book behind the division sheet entitled "Superseded Sections".

In the back of the book, behind each subject division sheet, substitute new "Supplemental Index" and "Supplemental Digest" for those presently contained therein.

John R. McGrath
Clerk of the Board of Supervisors

the annual salary ordinance for the fiscal year 1952-1953 to include the provisions necessary for paying said rates from July 1, 1952; provided, if additional funds are required, then provision shall be made for such payment out of such funds as the controller certifies are available for the purpose. Such funds as are made available shall first be applied to the payment of compensation for the period from the effective date of this section to June 30, 1953, and thereafter to the payment of such compensations for the period from the effective date of this section to July 1, 1952, and shall only apply to those persons who are members of the department on or after the effective date of this section.

The expression "rates of compensation," as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation," as used in this section shall mean "salary attached to the rank" as used in section 169 and "compensation earnable" as used in section 171.1.1.

For all purposes of the retirement system, the first adjustment of rates of compensation made by the board of supervisors after the effective date of this section shall be the rates of compensation for the members affected for the remainder of the fiscal year 1952-1953 following the month in which the ordinance making such adjustment becomes effective, and the annual compensations set forth in section 36 shall be the rates of compensation for said retirement purposes for the period from the beginning of the fiscal year 1952-1953 through said month.

The term "firemen" as used in this section shall mean the persons employed, in the fire departments of said cities of 100,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression ''members of the fire department'' does not include members of the fire commission. [*New section, 1944; repealed, 1946; new section, 1952*]

Fire Marshal

SECTION 37. The chief of the fire department, with the approval of the fire commission, may appoint a fire marshal and assistants on the recommendation of the Underwriters Fire Patrol of San Francisco, to serve without compensation from the city and county. The board of supervisors may empower the fire marshal to sell property saved or salvaged from any fire and for which no owner can be found. The fire marshal may call upon police officers to assist in the protection or salvaging of property and shall have such other powers and duties as by ordinance may be prescribed relative to the protection of property at fires and the storage of property salvaged therefrom. He shall have such duties appertaining to the enforcement of laws relative to the storage, sale and use of oils, combustible materials and explosives as the fire commission by rule, or the supervisors by ordinance, may prescribe.

Fire Prevention

SECTION 38. The bureau of fire prevention and public safety under the jurisdiction of the fire commission is hereby established. The commission shall detail to said bureau from the uniformed force of the department an officer to have charge of said bureau and such other personnel as it may deem necessary, who shall be paid the salary or salaries for their respective ranks in the fire department. The bureau shall inspect all structures and premises to determine whether or not compliance is being had with statutes and ordinances relative to fire prevention, fire protection and firespread control, and the protection of persons and property from fire. It shall enforce said statutes and ordinances and shall report violations to departments having jurisdiction.

The bureau shall examine the application, plans and specifications for the erection, and for alterations or repairs estimated to exceed $1,000 in cost, of any structure or premises subject to the statutes and ordinances referred to in this section. The bureau shall by written report, filed with the superintendent of building inspection, approve such plans and specifications, or report to said superintendent the particulars wherein non-compliance exists, and upon modification of the application, plans and specifications to comply therewith, the bureau shall inform said superintendent of its approval. No permit for alteration or repair exceeding $1,000 in cost, or for erection, shall be issued unless said approval is given.

The fire commission, relative to permits subject to issuance or revocation by the chief engineer of the fire department, shall, by regulation, prescribe such duties of the bureau of fire prevention as it shall deem appropriate. Any structure or premises wherein there exists any violation of statutes and ordinances referred to in this section, or which is maintained or used in such manner as to endanger persons or property by hazard of fire, explosion or panic and any structure or premises hereafter constructed, altered or repaired in violation of said statutes and ordinances is hereby declared to be a public nuisance, and it shall be the duty of the bureau to prosecute abatement proceedings.

An appeal and advisory board is hereby created, consisting of the chief engineer of the fire department, who shall be the chairman, and fire marshal, and the heads of the bureau of building inspection and the department of electricity, and a lay member to be appointed by the mayor for a four-year term. Said board shall serve without compensation.

An appeal may be taken from any act, determination or order of the bureau, performed under this section, by filing a written appeal with the appeal and advisory board.

Pending action on such appeal any construction, alteration or repair, embraced therein, may proceed if a building permit therefor has been issued, but no such permit may be issued while action on an appeal is pending. No certificate of completion or occupancy shall be issued by any officer or employee until said appeal has been determined. The advisory and appeal board may affirm, reverse or modify the act and determination of the bureau. If the appeal is determined adversely to the appellant, said structure or premises shall be made to comply with such decision. It shall require four votes of the board to reverse or modify the act, order or determination for the bureau.

Fire Prevention Continued; Fire Investigation

Section 38.01. Notwithstanding the provisions of section 38 of the charter, the following ranks are hereby established within the fire department as of July 1, 1953; captain, bureau of fire prevention and public safety; lieutenant, bureau of fire prevention and public safety; lieutenant, bureau of fire investigation; inspector, bureau of fire prevention and public safety; and investigator, bureau of fire investigation. Any member of the fire department now assigned as captain, bureau of fire prevention and public safety, lieutenant, bureau of fire prevention and public safety, lieutenant bureau of fire investigation, inspector, bureau of fire prevention and public safety, or investigator, bureau of fire investigation, shall, if he has been performing such duties on July 1, 1952 and continuously thereafter for the period of one year, or for a period of one year from July 1, 1951 to July 1, 1952 inclusively, be declared permanently appointed to such rank as if appointed thereto after examination and certification from a list of eligibles under the civil service provisions of this charter, and thereafter shall hold such position under the civil service provisions of this charter; provided that as to any member assigned to either of said bureaus who is or was on miiltary leave during any of the periods of time above stated such military leave shall be considered as service in the assignment from which leave was granted.

Vacancies existing in the several ranks established by this section shall be subject to competitive examination, and the provisions of section 146 of the charter relating to the fire department shall apply except as otherwise provided herein. Personnel of the fire department eligible to participate in an examination for the rank of captain, bureau of fire prevention and public safety shall come from the rank of captain. Personnel of the fire department eligible to participate in examinations for the rank of lieutenant, bureau of fire prevention and public safety and lieutenant, bureau of fire investigation shall come from the rank of lieutenant. Personnel of the fire department eligible to participate in examinations for the rank of inspector, bureau of fire prevention and public safety and investigator, bureau of fire investigation shall come from the ranks of hoseman, truckman and chief's operator. Nothing in this section shall prohibit captain, bureau of fire prevention and public safety nor captain from participating in an examination for the rank of battalion chief. Nothing in this section shall prohibit lieutenant, bureau of fire prevention and public safety nor lieutenant, bureau of fire investigation nor lieutenant from participating in an examination for the rank of captain. The ranks of inspector, bureau of fire prevention and public safety and investigator, bureau of fire investigation shall be considered equal with the ranks of chief's operator, hoseman and truckman for promotional examination to the rank of lieutenant.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety and lieutenant, bureau of fire prevention and public safety and lieutenant, bureau of fire investigation shall be $20.00 per month in addition to the amounts provided for the ranks of captain and lieutenant as provided for in section 36.2 of the charter. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety and investigator, bureau of fire investigation shall be the same as for the rank of chief's operator as provided in section 36.2 of the charter. [*New section, 1953*]

Salvage Corps

SECTION 38.1. There is hereby created in the San Francisco fire department a division to be known as the salvage corps.

The duties of said salvage corps shall be the protection of property, during the period of any fire and immediately after said fire, from damage by smoke, water or flames. Said salvage corps shall be under the jurisdiction of the fire commission of the City and County of San Francisco. The personnel of said salvage corps shall not be transferred to any other branch or division of the fire department but shall at all times be subject to the orders of the chief engineer of the department in so far as actual service is concerned. The personnel of said salvage corps may be increased in accordance with the fiscal and budgetary procedure provided for in the charter, but members of any other branch or division of said fire department shall not be transferred to said salvage corps except after examination and certification as to eligibility by the civil service commission.

All persons employed in the uniformed force of the corporation known as the Underwriters' Fire Patrol of San Francisco, on the effective date of this amendment and who have been so employed for a period of six months next before the effective date of this amendment shall become members of said salvage corps and shall be deemed appointed as such in accordance with the civil service provisions of the charter and shall thereafter be entitled to all of the benefits thereof. Any person heretofore employed in the uniformed force of said Underwriters' Fire Patrol of San Francisco who has been granted a leave of absence for military purposes and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six months next before the granting of said leave of absence, shall, on the expiration of his said leave, become a member of said salvage corps and also shall be deemed appointed thereto pursuant to the civil service provisions of the charter and entitled to all of the benefits thereof.

All persons who, on the effective date of this amendment, shall be serving as officers in said uniformed force of said Underwriters' Fire Patrol of San Francisco and who have been so serving for a period of six months prior thereto, shall continue to occupy their respective official positions, with the exception that such persons as may be serving in the position of sergeant shall become lieutenants in said salvage corps and the position of sergeant shall no longer exist.

The officers and members of said salvage corps shall receive respectively the salaries provided for captains, lieutenants and hosemen provided by section 36 of the charter and for the purpose of determining the salaries of said hosemen, service rendered in the uniformed force of said Underwriters' Fire Patrol of San Francisco shall be deemed as service rendered in the service of the City and County of San Francisco.

Upon the actual taking over of the employees of said Underwriters' Fire Patrol of San Francisco, the members thereof coming into the employment of the City and County of San Francisco shall become members of the San Francisco city and county retirement system and shall be entitled to the benefits thereof and subject to the obligations thereof pursuant to the provisions of section 165 of the charter.

All employees hereafter added to said salvage corps, including officers appointed thereto, other than those who may have been serving in the uniformed forces of said Underwriters' Fire Patrol of San Francisco and continue in the service of the City and County of San Francisco pursuant to the provisions of this section, shall be appointed and hold their positions subject to the civil service provisions of the charter.

The tours of duty of the members of said salvage corps shall be the same as the tours of duty for other members of the uniformed force of the fire department as the same are set forth in section 36 of the charter.

The physical and age requirements for future applicants and members of the salvage corps shall be the same as those applicable to applicants for and regular members of equal rank in the San Francisco fire department.

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the secretary of state, and the board of supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. [*New section, 1943*]

Salvage Corps—Military Leave Provisions

Section 38.2. Notwithstanding any other provisions of this charter, any person employed on July 1, 1943, in the uniformed force of said Underwriters' Fire Patrol of San Francisco who was absent from his duties therein on account of military service and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six (6) months next before July 1, 1943, is deemed a member of said salvage corps on July 1, 1943, on military leave from his position therein and is deemed appointed thereto on July 1, 1943, pursuant to the civil service provisions of the charter and entitled from said date to all of the benefits of such employment. [*New section, 1947*]

of the civil service commission and approval of the board of supervisors by ordinance enacted by two-thirds vote of the board. Authority for limited tenure appointments, if established pursuant to the authority of this paragraph, shall cease six months after repeal by the board of supervisors of the ordinance which authorized such appointments. [*New section, 1943; amended, 1951*]

Under a charter provision (See Los Angeles Charter, art. 9, § 34 (10)) providing for temporary positions in the civil service necessitated by absence due to the war, and rules providing a simplified procedure for selection of such employees, a holder of such a position is not a permanent employee, and is not embraced within a previously existing provision (Los Angeles Charter, § 37) blanketing in persons in the classified service at the time it took effect. **Matherly v. Allen** (1949) 86 Cal. App. (2d) 95, 194 Pac. (2d) 18.

Where conductors, motormen and bus drivers appointed under this section were given credit for length of service under limited tenure employment in determining length of service upon which to base priority in the choice of carbarns, runs and vacation periods, this practice under the rules of the San Francisco Public Utilities Commission was within the discretion of the commission in the absence of a charter provision to the contrary. **Hart v. Landis** (1951) 103 Cal. App. (2d) 284, 229 Pac. (2d) 380.

Cited without particular application. **Corcoran v. San Francisco City and County Employees Retirement System** (1952) 114 ACA 881, 251 Pac. (2d) 59.

CIVIL SERVICE
(Continued)

Promotions

SECTION 146. Whenever it deems it to be practicable, the civil service commission shall provide for promotion in the service on the basis of such examinations and tests as the commission may deem appropriate, and shall, in addition, give consideration to ascertained merit and records of city and county service of applicants. The commission shall announce in the examination scope circular the next lower rank or ranks from which the promotion will be made. Except as specifically provided in other sections of this charter, all promotions in the uniform forces of the police and fire departments, respectively, shall be made from the next lower civil service rank attained by examinations, as herein set forth, giving consideration also to meritorious public service and seniority of service. All such promotive examinations in the police and fire departments shall be entirely of a written character, and all questions asked or problems given in said examinations shall pertain to matters concerning the duties of members of the department for which the examination is held.

Fifteen per cent of the total credits obtainable under any promotive examination for eligibles for the police or fire department shall be allowed for seniority of service, which said credits shall be distributed as follows:

Examinations for Eligibles for the Police Department

(a) For Promotion to the Rank of Sergeant of Police:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of fiften per cent of the credits of the entire examination is reached;

(b) For Promotion to the Rank of Lieutenant of Police:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits of the entire examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of corporal or sergeant until a total of six per cent of the credits of the entire examination is reached.

(c) For Promotion to the Rank of Captain of Police:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of nine per cent of said total credits for said examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of lieutenant until a total of six per cent of the credits of the entire examination is reached.

(d) In addition to the foregoing credits for seniority, ten per cent of the total credits allowed for said examinations shall be allowed for ascertained merit and meritorious public service; sixty per cent of said ten per cent to be allowed to each applicant for a clean record in the department, and forty per cent of said ten per cent shall be the maximum which may be allowed for acts of meritorious public service according to the judgment of the commission.

Examinations for Eligibles for the Fire Department

Fifteen per cent of the total credits allowed for any promotive examination shall be allowed for seniority of service, which said credits shall be distributed as follows:

(e) For Promotion to the Rank of Lieutenant in the Fire Department:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a maximum of fifteen per cent is reached;

(f) For Promotion to the Rank of Captain in the Fire Department:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent is reached; and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service in the rank of lieutenant, until a total of six per cent of the credits of the entire examination is reached.

(g) For Promotion to all ranks above Captain in the Fire Department:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the fire department until a total of nine per cent of said credits is reached, and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service as an officer in the rank held by the applicant at the time of the examination, until a total of six per cent of the credits of the entire examination is reached.

(h) In addition to the foregoing credits for seniority, ten per cent of the total credits allowed for said examinations shall be allowed for ascertained merit and meritorious public service; sixty per cent of said ten per cent to be allowed to each applicant for a clean record in the department, and forty per cent of said ten per cent shall be the maximum which may be allowed for acts of meritorious public service according to the judgment of the commission.

(i) In promotional examinations in the fire department, seniority of service, meritorious public service and ascertained merit shall be added to the credit obtained by the applicant in the written portion of said examination, and shall be taken into consideration by the commission in determining his passing mark and his place upon the list of eligibles.

(j) In computing the credits for service in both the police department and the fire department, fractional parts of the year shall not be considered. [*Amended, 1937; 1941*]

The requirement that the commission, where it deems it practicable, shall provide for promotional examinations is mandatory, and, if there are qualified persons eligible to such examination, the commission can only ascertain if it is impracticable to give a promotional examination after those eligible have been given such examination. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342; **Rhodehamel v. Civil Service Commission** (1941) 18 Cal. (2d) 709, 117 Pac. (2d) 349.

Under this section promotional examinations, except for those in the lowest ranks, are required to be held unless they are not practicable, and in determining whether or not they are practicable the commission does not possess unlimited discretion. **Allen v. Mckinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342; **Rhodehamel v. Civil Service Board** (1941) 18 Cal. (2d) 709, 117 Pac. (2d) 349.

While this section makes it the duty of the commission to provide for a promotional examination whenever "it deems it to be practicable" whereas the old Charter provided for such examination "whenever practicable," the two sections should be construed to mean substantially the same thing, that is, that under the old section as under the new, the question as to whether a promotional examination is practicable is confined to the limited discretion of the commission. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

The provision requiring the commission "whenever it deems it practicable" to give promotional and not open examinations embodies one of the fundamental concepts of a sound civil service system. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

The requirement of this section that promotional examinations shall be held when practicable is intended to promote efficiency among public employees. **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342.

In giving an open and original examination, instead of a promotional one, for creating an eligible list for the position of adjuster in the tax collector's office, the Civil Service Commission abused its discretion where there were a large number of persons in the service fully qualified to take the examination for the eligible list for that position. **Allen v. McKinley** (1941) 18 Cal. (2d), 117 Pac. (2d) 342.

Discretion as to Ranks from Which Promotion Made.—Under the provision that "The commission shall announce . . . the next lower rank or ranks from which the promotion will be made," the Civil Service Commission has a wide discretion in determining the priority in ranks and in further determining the ranks falling in the category of the "next lower rank or ranks." And its determination will not be interfered with unless it clearly appears that the commission has abused its discretion. **Shannon v. McKinley** (1944) 62 Cal. App. (2d) 169, 144 Pac. (2d) 433, citing **Allen v. McKinley** (1941) 18 Cal. (2d) 697, 117 Pac. (2d) 342, decided under the old Charter.

It was not an abuse of discretion for the Civil Service Commission to declare that municipal railway conductors and motormen as well as inspectors were within "the next lower rank or ranks" eligible to take a promotional examination to create an eligible list for the rank of special instructor where there were many overlapping salary ranges, and at least in the lower grades there was no clear cut priority of rank and therefore no precise method, without the exercise of discretion, for the determination. **Shannon v. McKinley** (1944) 62 Cal. App. (2d) 169, 144 Pac. (2d) 433.

Mandamus.—In a mandamus proceeding to compel the Civil Service Commission to place the name of a police officer on the eligible list for promotion, brought following the allegedly erroneous denial of any points allowable for a clean record, the limit of the trial court's power, if it finds the petitioner to be entitled to relief, is to direct the commission to exercise its discretion in determining whether the officer is entitled to any of such points, and, if so, what part. **Conroy v. Civil Service Commission** (1946) 75 Cal. App.. (2d) 450, 171 Pac. (2d) 500.

Effect of Judgment.—A judgment in a declaratory relief action purporting to adjudge the effect of the 1941 amendment to the section is not res judicata where the action did not present any acute, specific or pending controversy, but sought an advisory opinion on behalf of the entire membership of the police force. **Conroy v. Civil Service Commission** (1946) 75 Cal. App. (2d) 450, 171 Pac. (2d) 500.

Deduction for Unclean Record.—Where, in computing the score of a police officer on a promotion examination, the commission, applying the provision of the 1941 amendment to this section directing sixty per cent of the ten per cent to be allowed for a clean record, deducted all sixty points from applicant's score because he had been before the commission for disobedience of an order, thus bringing his score below the passing mark, the officer was not entitled to a writ of mandate to compel the commission to place him on the eligible list, since the court could not control the commission's discretion in determining whether petitioner was entitled to any part of the sixty points. **Conroy v. Civil Service Commission** (1946) 75 Cal. App. (2d) 450, 171 Pac. (2d) 500.

Substitute Promotional Examinations for Persons Returning from Service in Armed Forces or Maritime Service

SECTION 146.1. Employees under permanent civil service appointment who, because of absence on duly authorized military leave, did not participate in a promotional examination held between September 16, 1940, and July 7, 1947, in which examination the employee would have been otherwise eligible to compete had the war not intervened, and which examination is hereinafter referred to as the original promotional examination, shall after abridgment of military leave, have the right to participate in a similar promotional examination. The provisions of this section shall not apply to employees whose military leave extends beyond July 7, 1947. Provided further, that persons and employees who were on entrance or promotive eligible lists, shall, for the purpose of this amendment, be deemed to be permanent appointees in their classifications from the time their names were reached for certification while in the military service.

In order to qualify for participation in a similar promotional examination under the provisions of this section, such employee who desires to participate therein must have made application in writing to the civil service commission within thirty days after the abridgment of his military leave, or within thirty days after January 7, 1947. Failure to file such written request to participate in a similar promotional examination as herein provided shall be deemed a waiver of all rights of the employee to participate in such similar promotional examination.

The civil service commission shall arrange to hold such similar promotional examination within a reasonable time after all such employees eligible to request participation in any such similar promotional examination under the provisions of this section have indicated their desire to so participate, or have waived their right to participate, as herein provided.

The civil service commission shall be the sole judge of the adequacy of such similar promotional examination. If the employee obtains in the similar promotional examination a score rating equal to or more than the minimum passing mark established by the civil service commission for inclusion on the list of eligibles resulting from the original promotional examination, his name shall thereupon be entered on the eligible list resulting from the original promotional examination in accordance with the relative excellence obtained by all the qualified participants in the original and similar promotional examinations. Such employees shall be eligible for appointment from such list of eligibles in accordance with civil service rules to any vacancy thereafter occurring, and subject to satisfactory completion of a probationary period as provided in section 148 of this charter for a period of four years after the proclamation of peace or the termination of the emergency, and before eligibles procuring standing through examinations held subsequent to the original promotional examination.

If it is determined by the civil service commission that the name of such person would have been reached for permanent appointment from the list of eligibles established as a result of the original promotional examination during his term of military service had the name of such person appeared thereon, then such employee, upon appointment to a permanent position as herein provided, shall be granted seniority in such appointment from the date his name would have been reached had his name appeared thereon, but such seniority shall be used only for the purpose of determining salary increments and calculating city and county service credits in other promotional examinations held subsequent to the similar promotional examination herein authorized. For all other purposes, seniority of service shall date from the date of appointment as a result of qualifying in the similar promotional examination as herein authorized.

Such employees who qualify for appointment as a result of a similar promotional examination as herein provided, and who are appointed to permanent positions, as herein provided, shall be permitted to participate in other promotional examinations for which they are otherwise eligible, while serving under probationary appointment in the position to which appointed as a result of the similar promotional examination, provided that certification from lists of eligibles established from such other examinations shall not be made until the employee has satisfactorily completed the aforesaid probationary appointment.

The civil service commission shall adopt rules to govern the administration of similar promotional examinations herein authorized, and appointments and other matters resulting therefrom. [*New section, 1947; amended, 1948*]

Substitute Promotional Examinations for Employees Returning From Service in Armed Forces

SECTION 146.2. Employees under permanent civil service appointment who, because of absence on duly authorized military leave for service in the armed forces of the United States, did not participate in a promotional examination held between September 16, 1940 and the effective date of this amendment, in which examination the employee was otherwise eligible to compete, and which examination is hereinafter referred to as the original promotional examination, shall after abridgment of military leave, have the right to participate in a similar promotional examination, subject to the provisions of this section. The provisions of this section shall not apply to employees whose military leave extends beyond six months after the effective date of this amendment.

In order to qualify for participation in a similar promotional examination under the provisions of this section, such employee who desires to participate therein must make application in writing to the civil service commission within thirty days after the abridgment of his military leave, or within thirty days after the effective date of this amendment, whichever is later. Failure to file such written request to participate in a similar promotional examination as herein provided shall be deemed a waiver of all rights of the employee to participate in such similar promotional examination.

The civil service commission shall arrange to hold such similar promotional examination within a reasonable time after all such employees eligible to request participation in any such similar promotional examination under the provisions of this section have indicated their desire to so participate, or have waived their right to participate, as herein provided.

The civil service commission shall be the sole judge of the adequacy of such similar promotional examination. If the employee obtains in the similar promotional examination a score rating equal to or more than the minimum passing mark established by the civil service commission for inclusion on the list of eligibles resulting from the original promotional examination, his name shall thereupon be entered on the eligible list resulting from the original promotional examination in accordance with the relative excellence obtained by all the qualified participants in the original and similar promotional examinations. Such employees shall be eligible for appointment from such list of eligibles in accordance with civil service rules to any vacancy thereafter occurring, and subject to satisfactory completion of a probationary period as provided in section 148 of this charter for a period of four years after the proclamation of peace or the termination of the emergency, and before eligibles procuring standing through examinations held subsequent to the original promotional examination.

If it is determined by the civil service commission that the name of such person would have been reached for permanent appointment from the list of eligibles established as a result of the original promotional examination during his term of military service had the name of such person appeared thereon, then such employee, upon appointment to a permanent position as herein provided, shall be granted seniority in such appointment from the date his name would have been reached had his name appeared thereon, but such seniority shall be used only for the purpose of determining salary increments and calculating city and county service credits in other promotional examinations held subsequent to the similar promotional examination herein authorized. For all other purposes, seniority of service shall date from the date of appointment as a result of qualifying in the similar promotional examination as herein authorized.

Such employees who qualify for appointment as a result of a similar promotional examination as herein provided, and who are appointed to permanent positions, as herein provided, shall be permitted to participate in other promotional examinations for which they are otherwise eligible, while serving under probationary appointment in the position to which appointed as a result of the similar promotional examination, provided that certification from lists of eligibles established from such other examinations shall not be made until the employee has satisfactorily completed the aforesaid probationary appointment.

The civil service commission shall adopt rules to govern the administration of similar promotional examinations herein authorized, and appointments and other matters resulting therefrom. [*New section, 1947*]

[illegible]

cite c.
c